PROCEEDINGS BY AND AGAINST THE CROWN—see p. 358. DEPOSITS ON SALES OF LAND—see p. 362

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*** Notices to Subscribers and Contributors will be found on page ix.

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Current Topics.

Official Referees.

THE OFFICE of Official Referee, to which Mr. HANSELL, K.C., has just been appointed in place of the veteran Sir EDWARD POLLOCK, whose retirement is widely regretted, dates from the Judicature Act, 1873. The duties may be described as dull, but important, involving, as frequently they do, the most minute examination of figures in building and other accounts—work which cannot properly be done by the judges in court. In COMTE DE FRANQUEVILLE'S elaborate work on "Le Système Judiciaire de la Grande Bretagne," in the preparation of which he, as the son-in-law of Lord Chancellor SELBORNE, had favourable opportunities of acquiring precise information on the points he discussed, there is this curious note regarding the office of Official Referee: "*L'institution n'a pas eu grand succès, et le lord chancelier a dû récemment reconnaître lui-même que ces fonctionnaires n'ont rendu que des services extrêmement limités.*" That was said in reference to some observations of the then Lord Chancellor in the House of Lords in 1888. Since then, however, we are not aware of any serious criticism of the utility of the office, or of the manner the duties are carried out, save, perhaps, that the inquiries conducted by the referees sometimes appear to be unduly protracted, but from the nature of the investigations in which they are engaged this is almost inevitable. As a rule "short cuts" are not possible in the nature of the references which they have to undertake.

Law or Fact ?

IN *R.* v. *Davies*, 1897, 2 Q.B. 199, LORD RUSSELL OF KILLOWEN is reported to have said: "But, further, it appears that the jury were asked whether the house was used for unlawful gaming, and whether the game of 'German Bank' as played there was an unlawful game. These questions, however, are questions of law for the judge and not of fact for the jury, who must apply the facts to the definition of the law given by the judge." The first part of the last sentence, though all conversant with the law can interpret it correctly, is not an accurate statement of the law; it is not even what the learned Lord Chief Justice actually said. The correct direction to the jury would be: "If you find that this game was played as stated by the witnesses, it was" (or was not, as the judge decides) "an unlawful game. If you find that it was played in this house in the circumstances described, the house was" (or was not) "being used for unlawful gaming." The judgment is more accurately reported in 41 SOL. J. 511, where the Lord Chief Justice is made to say: "A further point was that the jury were asked to say whether 'German Bank' was an unlawful game without any direction as to what an unlawful game was; that was a point on which they ought to have had the direction of the judge." That is the whole gist of the matter. It is for the judge to direct on the law, for the jury to find the facts, all the facts. The point is of some importance, for the words of LORD RUSSELL OF KILLOWEN are quoted with approval from the Law Reports in the recent case of *R.* v. *Kirby and others*, 1927, 20 Cr. App. R. 12, without comment or explanation, and a tendency has already manifested itself to misunderstand the position.

Particulars on Reviews of Workmen's Compensation Payments.

IN THE cases referred to in a note on p. 316 *supra*, and reported on p. 350 *supra*, of *Vickers Limited* v. *Miners* and *Thames Steam Tug and Lighterage Company* v. *Ingram*, where appeals were brought from orders requiring and refusing respectively particulars of the extent of the proposed diminution of a weekly payment, the Court of Appeal re-stated the principle laid down soon after the passing of the first Workmen's Compensation Act in 1897, that an appeal to that court lay on a question of law only, and though the proper construction of the Rules and Forms was a question of law, this was a matter for the discretion of the judge in each particular case, and therefore not appealable: *Smith* v. *Lancashire and Yorkshire Railway*, 1899, 1 Q.B. 143. If the court had stopped there, the cases would not have called for any report. But all the members of the court proceeded to state, at length and *obiter*, what, in their opinions, should be the principles to guide a judge in making or refusing an order for further particulars. Under r. 29 the judge has clearly power to make such an order. Where an employer is advised that the workman has fully recovered but knows that the review will be opposed, he applies usually for termination or diminution of the weekly payment, the latter claim being an alternative to fall back upon in the event of the employer's medical evidence not being strong enough to justify termination. In this, which is probably the more usual case, to order particulars might embarrass the employer and be useless to the workman. For the employer might reply, "I am not sure what view the judge will take on the medical evidence, and therefore I claim diminution from 30s. to 25s., or to 20s., or to 15s., or etc., down to zero." Where, however, the employer is not prepared

to prove that the workman has completely recovered and only asks for diminution, the court considered there was much more reason to require the employer to give further particulars and to state the maximum reduction that he was claiming. But each case is one for the exercise of discretion, having regard to its particular facts. Particulars should be sparingly ordered, and not with costs as an ultimate objective, on the ground that one side has eventually obtained more than the other side offered. The same would apply, *mutatis mutandis*, to an application by a workman for a review and increase of a weekly payment.

The Mississippi and the Thames.

SUPPOSING THAT, owing to excessive rainfall in the Chilterns and in the hills between Oxfordshire and Gloucestershire, the choice lay between suffering Lambeth and Pimlico to be submerged, or breaking dykes and flooding low-level areas in Kent or Essex—what would or could be done? There can of course be one answer only to such a question—that, given such a stark choice, then, as at Poydras, so at Plumstead or Crossness, the defences against the river would be breached, and, to save great urban areas, the agricultural marshes would be flooded. And further, the farmers would not bring machine-guns, nor would soldiers be necessary. The persons suffering damage would know that, if what was done was unlawful, it would be subsequently legalised by an Indemnity Act, giving them compensation. And they would know also that the compensation would be paid, though they might have to suffer certain minor aggravations in having it whittled down and delayed. The question between private landowners as to the right of the proprietor of Blackacre to protect it from flood, and so to divert the unwanted waters on to Whiteacre, has been discussed in a number of cases, most of which were cited in *Gerrard* v. *Crowe*, 1921, 1 A.C. 395. This was a Privy Council case from New Zealand, but our common law was not excluded, and it was definitely held that a landowner may protect his land from possible flood by an embankment (distinguishing *Menzies* v. *Breadalbane*, 1828, 3 Bli. N.S. 414, where it was held that the Tay had a regular flood channel, which must not be altered) even though the water is thereby thrown on his neighbour's land. From this it may perhaps be submitted that, where a landowner has land on both sides of a river, and both are embanked, he may make a breach in one, so as to save his more valuable land on the other side, although the breach may flood a neighbour's land as well as his own—unless, of course, his neighbour has a prescriptive or other right to have the embankment maintained. On this footing, the London County Council might make a breach in a dyke owned by them, but could not trespass to do so without statutory power. Their powers under the Metropolis Management (Thames River Prevention of Floods) Amendment Act, 1879, of "executing flood works" are considerable, but hardly seem to include breaching someone else's dyke before the machinery of the Lands Clauses Act can be set in motion. Similarly, the Thames Conservancy has full control over sluices, but if it erects an embankment under statutory powers its ordinary duty is to maintain it; see *Boynton* v. *Ancholme Drainage Commissioners*, 1921, 2 K.B. 213. It may be added that *Hurdman* v. *N.E.R.*, 1878, 3 C.P.D. 168, seems to be a borderline case between *Fletcher* v. *Rylands*, 1868, L.R. 3, H.L. 330, and *Gerrard* v. *Crowe*, *supra*.

Exclusion of Public on Hearing of Interlocutory Summonses Adjourned into Court.

A PRACTICAL point of some public interest was recently raised, when, on the hearing of an interlocutory summons, which had been adjourned into court, objection was taken to the presence of reporters in court.

Although in practice, summonses before the judge in chambers are heard only in the presence of the parties and their advisers to the exclusion of the general public, there does not appear to be any express authority or provision which prohibits the admission of the public to the hearing of such summonses, and it would seem that a hearing in chambers of a summons is in this respect on the same footing as the hearing of an action in open court.

With regard to trials, *Scott* v. *Scott*, 1913, A.C. 417, which is a decision of the House of Lords, decided that the High Court has no jurisdiction, even with the consent of the parties to exclude the public from the hearing of any suits, including nullity suits, with some few exceptions. And it may be argued from s. 62 (1) of the Judicature Act, 1925, that the above rule equally applies to a judge sitting in chambers. By s. 62 (1) it is provided that "a judge of the High Court may . . . exercise in court or in chambers, all or any part of the jurisdiction vested in the High Court . . .", and a judge in chambers (including his private room—*Hartmont* v. *Foster*, 8 Q.B.D. 82), has the jurisdiction of the High Court generally—*Clover* v. *Adams*, 6 Q.B.D., at p. 624. *A fortiori* the above principle would apply to an adjournment of a summons into court under Ord. 54, r. 22. That order provides that a judge in chambers may in certain circumstances direct any summons, appeal or application to be heard in court, or may adjourn the same to be so heard. But the order goes on to provide that "any decision in court on any such summons, appeal or application shall be deemed to be a decision at chambers." This latter provision, however, only appears to apply to such matters as appeal and procedure, and does not affect the hearing in so far as it is a hearing in court. This was, at any rate, the view taken by FRASER, J., who ruled that the matter was in court for all purposes, and that he could not exclude any one who chose to be present.

Disclosure of Insurance to Jury.

A PRACTICE point of some interest was raised in *Askew* v. *Grimmer*, *The Times*, 22nd March, out of the disclosure to the jury, in an action for damages for personal injuries, of the fact that the defendant was insured. Although there appears to be no decided authority on the point, the practice is well settled that no disclosure of any insurance should be made at the trial, but, on the other hand, there appears to be no *legal* reason why a new trial should be ordered in cases where such disclosure is made. While there is apparently no express rule which prohibits the disclosure of the fact that the defendant is insured, the Rules of the Supreme Court expressly provide that the fact of payment into court is not to be communicated to a jury. Thus Ord. 22, r. 22, provides that "where a cause or matter is tried by a judge with a jury, no communication to the jury shall be made until after the verdict is given, either of the fact that money has been paid into court, or of the amount paid in. The jury shall be required to find the amount of the debt or damages, as the case may be, without reference to any payment into court."

Where the above rule as to non-disclosure of payment into court is not observed, the judge will stop the case and discharge the jury and the case will have to be tried over again, and it is immaterial whether the money has been paid into court with or without a denial of liability: *Jaques* v. *South Essex Waterworks Co.*, 20 T.L.R. 563. The above principles, at any rate, apply to ordinary actions for debt or damages, but actions for libel seem to be on a different footing (see the cases cited in the "Annual Practice" in the notes to Ord. 22, r. 22).

In *Askew* v. *Grimmer*, *sup.*, counsel for the plaintiff, in his opening, stated to the jury that the defendant had admitted liability, and had referred the plaintiff to his insurance company, and it was pointed out that if this was the case, the insurance company might not be liable according to the terms of the policy. Mr. Justice BRANSON refused to discharge the jury, solving the difficulty by observing to the jury that it would be unfair to treat the defendant as insured, since it might very well turn out that he had forfeited his rights under the policy.

The Trade Disputes and Trade Unions Bill.

II.

By E. P. HEWITT, K.C., LL.D.

(*Continued from p.* 341.)

Clause 2 (1), which is designed to protect from victimisation persons who take part in a strike, only applies to strikes declared by the Bill to be illegal. It is unreasonable that there should, after a dispute has been settled, be victimisation on either side, whether the particular strike has succeeded or failed; and the section might, it is thought, be extended by prohibiting victimisation after a strike, whether it be a strike declared by the Bill to be illegal or not. It cannot, however, be justly called victimisation for an employer to refuse to discharge an efficient workman because a striker desires to take his place. But, as a general rule, those who have been on strike should be taken back into their old positions, where vacant or as and when vacancies occur, without unfair treatment being dealt out to others.

Sub-section (2) provides a remedy in cases where the prohibition contained in sub-s. (1) is disregarded; and in the event of a member being expelled from a trade union in consequence of his having refused to take part in an illegal strike, the court may, in lieu of ordering the member so expelled to be restored to membership, order that he be paid compensation or damages out of the funds of the trade union.

Sub-section (3) makes the provisions of sub-ss. (1) and (2) retrospective by declaring that as respects any strike before the passing of the Act which is declared by the Act to have been illegal, the section is to have effect as if it had been in operation when the strike took place. This sub-section, it is thought, is too wide. Assume, for example, that the railway and transport strike of 1919 is one which, if the new Bill had been in operation, would have been illegal, and that after the strike had finished some of the members of the unions concerned were expelled for not taking part in the strike, such members, it seems—if s. 2 (3) passes in its present form—would be entitled, after the Bill becomes law, to bring actions for damages against the unions. This can hardly be what is intended.

Section 3 of the Bill relates to the important question of picketing, upon which subject it is generally recognised that the law requires amendment. The Trades Disputes Act, 1906, s. 2, expressly declares it to be lawful for one or more persons, in contemplation or furtherance of a trade dispute, to attend at or near a house or place where a person resides or works or carries on business or happens to be, "if they so attend merely for the purpose of peacefully obtaining or communicating information or of peacefully persuading any person to work or abstain from working." Section 3 (1) of the present Bill qualifies the right to picket given by s. 2 of the Act of 1906 by declaring it to be unlawful for persons to attend at or near a house or place, &c., "*if they so attend in such numbers or otherwise in such manner as to be calculated to intimidate*" any person in such house or place, or to obstruct the approach thereto or the egress therefrom, or to lead to a breach of the peace. Such a provision seems reasonable and logical. In order to exercise genuine persuasion, it cannot be necessary to attend in crowds; and it is hardly possible to picket in large numbers without causing intimidation.

It might have been better, it is thought, to leave s. 3 (1) without attempting to define the expression "to intimidate." The definition would not seem to be required or to be likely to assist the tribunal before which a case may come. By sub-clause (2) however, "to intimidate" is defined as meaning

> "to cause in the mind of a person a reasonable apprehension of injury to him or to any member of his family or of violence or damage to any person or property, and the expression 'injury' includes injury other than physical or material injury, and accordingly the expression 'apprehension of injury' includes an apprehension of boycott, or loss of any kind, or of exposure to hatred, ridicule, or contempt."

The terms of this definition are wide, but whether the boycott, loss, ridicule or contempt apprehended is of such a character as to amount to intimidation must be a question of degree, and any case arising would have to be determined by the courts in a reasonable manner according to its special circumstances, and due regard being paid to the fact that the governing words show that, in order to amount to intimidation, what is complained of must cause "a reasonable apprehension of injury."

Section 3 (4) of the Bill provides that it shall be unlawful for one or more persons, for the purpose of inducing anyone to work or to abstain from working "to watch or beset a house or place where a person resides or the approach to such a house or place." By this provision, as will be observed, picketing at the home is prohibited, whether the pickets attend in crowds or not. This is a reasonable amendment; to watch or beset a person's place of dwelling cannot be required in order to persuade, and is calculated—especially when it takes place in the absence of the man of the family—to cause genuine, although it may be unfounded, alarm.

It may be permissible here to point out that the amendments to the law of picketing, made by clause 3 of the Bill—apart from the definition of the expression "to intimidate"—are substantially the same as those suggested in the Solicitors' Journal in its issue for the 22nd January. It was there recommended that picketing at the home should be prohibited, and that the right to picket elsewhere than at the home should be qualified by a proviso making it unlawful "to attend in such numbers or in such manner as to intimidate or be likely to intimidate any person or persons." These words, it will be observed, are in fact almost identical with those which the Bill uses.

Section 4 of the Bill is somewhat lengthy, and is designed to substitute contracting in for contracting out in regard to the political funds. It provides that no member of a trade union shall be required to contribute to the political fund of the union unless he has delivered a written notice of his willingness to contribute and has not withdrawn such notice in the manner thereinafter provided. This amendment, it will be observed, is also substantially the same as that suggested in the Solicitors' Journal in its issue for the 22nd January, it being there recommended that in place of the words "if he gives notice that he objects to contribute," in s. 3 (1) (*a*) of the Act of 1913, which provides for exemption from liability to contribute, there should be inserted the words "unless he gives written notice of his desire to contribute, which notice, nevertheless, he shall be at liberty at any time to withdraw."

Section 4 (2) of the Bill provides that no assets of the trade union, other than the amount raised by the separate levy provided for shall be "directly or indirectly applied or charged in furtherance of any political object to which s. 3 of the Trade Union Act, 1913, applies." This clause only makes more clear and definite the existing law as laid down by s. 3 (1) of the Act of 1913.

(*To be continued.*)

The attention of the Legal Profession is called to the fact that the PHŒNIX ASSURANCE COMPANY Ltd., Phœnix House, King William Street, London, E.C.4 (transacting ALL CLASSES OF INSURANCE BUSINESS) invites proposals for Fidelity Guarantee and Court Bonds, Loans on Reversions and Life Interests. Branch Offices at Byron House, 7, St. James's Street, S.W.1; 187, Fleet Street, E.C.4; 20-22, Lincoln's Inn Fields, W.C.2; and throughout the country.

Some Legal Aspects of Town Planning.

By RANDOLPH A. GLEN, M.A., LL.B.
(*Editor of "Glen's Public Health," 1925 Edition.*)

(*Continued from p. 342.*)

II

The remaining point in the *Ruislip-Northwood Case*, to which I devoted most of my article on this subject last week, is of importance in connexion with other matters besides town planning. Compensation, it will be remembered, was being claimed because of the fixing of a building line by the council's scheme. The claimant's builder had been convicted and fined for a breach of s. 3 of the Public Health (Buildings in Streets) Act, 1888. On the north side of the claimant's land was a police station which was built to the edge of the road, and on the south, separated by a side road, was a shop set back 7 feet. The builder was convicted for building beyond the line set by the shop. An appeal to Quarter Sessions failed on the merits, and one to the Divisional Court was dismissed for technical reasons connected with service of the notice of appeal.(1) The council relied upon the doctrines of estoppel and *res judicata*, and contended that this conviction was in effect a decision that the claimant could not build on his land beyond the line laid down in the Act of 1888, which was the same as that subsequently laid down in the town planning scheme, and therefore could not claim compensation by reason of the scheme. The arbitrator (now His Honour Judge Moore) held that, though the claimant was bound by the conviction and could not build beyond the line without the consent of the council, this did not affect the whole of his land unless he built a continuous block of buildings extending from the police station to the side road.(2) Bailhache, J.,(3) held that the above doctrines did not apply, and said: the shop "did not constitute a building line which governed his land, and certainly did not govern that portion of it which was nearest the police station, and in my opinion it did not govern it at all." In the Court of Appeal, however,(4) Bankes, L.J., said that it was clear that "at some point on the appellant's land the shop would become a house or building on one side of any house or building erected by the appellant on his land so as to bring [s. 3 of the Act of 1888] into operation. In so far as the section controls the building line upon the appellant's land, to that extent he cannot claim any compensation, because the building line dictated by the shop is the same as the one laid down in the scheme." Scrutton, L.J., put it thus:(5) "Houses on some undefined length of Mr. Ellis's frontage would have the southern shop on one side of them and would project beyond the main front of the southern shop and therefore be illegal." This defence, therefore, partially succeeded, and the case was sent back to the arbitrator with the result already stated.(6)

The second of the two reported High Court town planning cases arose in 1925, and concerned the construction of two clauses in the Ruislip-Northwood scheme.(7) The owner of a motor garage, in a street for which a line had been fixed by the scheme, erected two petrol pumps in a forecourt in front of his premises. These pumps were on land which had not been dedicated as part of the street, but they were beyond the line. The justices fined him one shilling on each of four summonses which described the offence in a variety of ways, but made no order as to costs. The two clauses in the scheme upon which reliance was placed were, so far as is material, as follows: by clause 36 (*a*), "where a building line is shown upon the map in respect of any existing street no building or erection other than boundary walls or fences shall be erected or set up nearer to the street than such building line." By clause 40 (*b*), "no post rail fence or other obstruction shall be erected in front of any shop or business premises in advance of the building line" fixed by the scheme. With regard to the first provision, the owner contended that petrol pumps were not buildings or erections *ejusdem generis* with boundary walls or fences, and, with regard to the second, that they were not obstructions to a highway, to which the clause was confined, and were not *ejusdem generis* with posts rails or fences. The Divisional Court,(8) however, held that the pumps were both "erections" and "obstructions," Lord Hewart, C.J., remarking as to the latter: "They obstructed access to the premises in some such way as that in which access might be obstructed by a post or a rail or a fence." This case affords an illustration of an unanticipated direction in which the use of private property can be interfered with by a town planning scheme.

Next week I propose to deal with an unreported High Court case, and a Leeds County Court case. In the first, a local authority succeeded in compelling an owner, who was laying out a building estate contrary to their wishes, to comply with those wishes, though their town planning scheme was only in its initial stage. The second shows what a local authority may or may not do with erections on land scheduled to an approved scheme as the site of a proposed new highway.

(1) *Hollidge* v. *Ruislip-Northwood U.D.C.*, 1913, 77 J.P. 126.
(2) 17 L.G.R. at pp. 433, 434.
(3) *Ibid.*, at p. 437.
(4) *Ibid.*, at p. 613.
(5) *Ibid.*, at p. 618.
(6) *Ante*, p. 342, n. (18).
(7) *Mackenzie* v. *Abbott*, 1926, 24 L.G.R. 444.
(8) Lord Hewart, C.J., and Shearman and Roche, JJ.

Proceedings by and against the Crown.

THE COMMITTEE'S REPORT.

In 1921 the Lord Chancellor (The Earl of Birkenhead) appointed a committee to consider the position of the Crown as a litigant, to propose such amendments of the law as they might consider advisable and feasible having due regard to the exceptional position of the Crown, and to prepare a Bill embodying and giving effect to such changes as they might feel themselves in a position to recommend. In 1924 the then Lord Chancellor (Lord Haldane) modified the original terms of reference and requested the committee to prepare a Bill on the assumption that the following alterations in the law were both desirable and feasible:—

(*a*) That the procedure by information and petition of right should be abolished and the procedure in cases in which the Crown was a litigant should be assimilated, as far as possible, to the procedure regulating the conduct of cases between subjects, including such matters as discovery, the receiving and paying of costs by the Crown, and the like;

(*b*) That the Crown, with certain reservations, should be placed in the same position as a subject as regards the power and liability to sue and be sued in the county courts;

(*c*) That the Crown should become liable to be sued in tort.

This curtailment of the committee's deliberations seems to us to have been justified, for, in our opinion, the assumption upon which the Bill now before us rests will command general, if not universal, approval, and is strengthened by a consideration of the detailed provisions of the Bill which has been framed to give effect to it. The committee's report is now published (Cmd. 2842), and consists of (*a*) the proposed Crown Proceedings Bill; (*b*) a letter from the Lord Chancellor's Secretary to the Attorney-General of 16th November, 1921, embodying the terms of reference; and (*c*) a very short report to which the above-mentioned documents are appended. The committee is a strong one, containing representatives of the Bench, of counsel for the Crown, of the Treasury Solicitor

and his staff at the Law Courts, of the Treasury, of the Parliamentary draftsmen's office, of the Law Society, and of the Lord Chancellor's office. It was presided over by the Lord Chief Justice.

The Bill falls into three parts: I, Procedure; II, Substantive Rights; and III, Supplemental and Miscellaneous. It consists of thirty-one sections, and we cannot do more than draw attention to some of the more outstanding features.

PART I. PROCEDURE.

(*a*) *Proceedings by the Crown.*—The proceedings on behalf of the Crown heretofore known as, or instituted by means of, the Information of the Attorney-General, writ of extent, *diem clausit extremum*, or *scire facias*, will disappear, and in their place the Crown will sue in the High Court in substantially the same manner as is followed in an action in the High Court between subjects and in accordance with the ordinary practice and procedure of the High Court in the case of such an action. Moreover, Crown proceedings may be instituted in a county court and carried on in the same way as an action in a county court between subjects; but such an action will be removed to the High Court upon the production of the Attorney-General's certificate that an important question of law arises or that other good cause exists, and an action instituted by the Crown in the High Court cannot be remitted to a county court without the consent of the Crown.

(*b*) *Proceedings against the Crown.*—The proceedings which have hitherto been instituted against the Crown by means of petition of right or of an action against the Attorney-General or agains any Government Department, or against any officer of the Crown as such, and all other proceedings authorised by the bill against the Crown, will be commenced and carried on either in the High Court or in a county court (as above mentioned) in accordance with the ordinary practice and procedure relevant to an action between two subjects.

(*c*) Proceedings *by* the Crown will be instituted in the name of the Attorney-General or of the appropriate Government Department, and proceedings *against* the Crown will be instituted against the Attorney-General. In any proceedings to which the Crown is a party the court may give the same relief as it could in similar proceedings between subjects, except that in lieu of an injunction or a decree of specific performance or an order for the recovery of land or other property being given *against the Crown*, the court will merely make an order declaratory of the rights of the parties.

Thus a judgment for debt or damages may be given against the Crown, though it cannot be executed (s. 18 (4)), but an injunction or a decree of specific performance or an order for the recovery of land or other property against the Crown seems to savour of impropriety, and a declaratory order will be substituted therefor. Crown proceedings in the High Court will be tried there unless the court, with the consent of the Crown, otherwise directs, and for county court purposes "the Crown shall be deemed to dwell and carry on business in the Metropolitan district and not elsewhere"—a legal fiction which is eminently necessary but so flippant as to be almost shocking. The Crown as defendant may rely upon any statutory defences which would be available to a defendant in an action between subjects, and in general the rules of court relating to appeals and stay of execution will apply to proceedings by and against the Crown.

To sum up the effect of this part of the bill, it appears to be purely procedural, and not to reduce or increase the substantive rights and liabilities of the Crown; it sweeps away a number of archaic and technical forms of procedure (together with the necessity of His Majesty's fiat in the cases where it is now necessary) and substitutes the writ of summons or other normal procedure of an action between two of His Majesty's subjects. It is therefore the true heir of the many legislative measures which during the past century have been progressively simplifying our legal system.

PART II.—SUBSTANTIVE RIGHTS.

The second part of the Bill makes some important changes in substantive law. The maxim that "the Crown can do no wrong" has had important consequences in regard both to our constitution and to our private law. In the former connexion there developed as its corollary the doctrine of ministerial responsibility, for, if the King can do no wrong, someone else must be found to bear responsibility for the injurious act. In the sphere of private law the maxim has meant that no person injured by the act of a servant of the Crown (or indeed of the sovereign himself) can sue the Crown, though in the case of a breach of contract and the wrongful seizure and withholding of property the sovereign graciously permits himself to be sued by petition of right. Section 11 of the Bill provides that, with unimportant exceptions, the Crown shall be liable in tort, and accordingly proceeds to declare the relation of the Crown and its officers to be that of principal and agent, and to make the Crown liable for any wrongful act done or any neglect or default committed by one of its agents in the circumstances in which a private person would be; but the Crown will be entitled to any defences which its officers, if sued, would have had for the purpose either of limiting or negativing liability, and in particular the Public Authorities Protection Act, 1893, will apply There is a special section relating to the liability of the Postmaster-General. Claims for salvage services rendered to or by His Majesty's ships may be brought in the ordinary way, and the Crown is entitled to the benefit of the provisions of the Merchant Shipping Acts for the limitations of liability for injury done which is enjoyed by other owners of ships and docks and harbours.

It should, however, be noted (*a*) that the Bill, while making the Crown liable for the wrongful acts of its officers, does not relieve those officers from their own personal liability, and (*b*) that it does not apply to proceedings by or against His Majesty in his private capacity. Finally, an important section (16) enables the Crown on conditions of reciprocity to extend by Order in Council Part II of the Bill so as to confer upon the subjects of a foreign state the same rights against the Crown as a British subject has. Apparently in the absence of such an Order in Council even a foreigner domiciled in Great Britain and living within the King's protection does not get the benefit of the Bill.

PART III.—SUPPLEMENTAL AND MISCELLANEOUS.

Among the many miscellaneous provisions contained in this part of the Bill, perhaps the most important are as follows: (*a*) *Costs.*—Broadly speaking, the Crown will be placed in the same position as to costs in legal proceedings (including arbitrations) as a private subject. (*b*) *Execution.*—No execution or attachment can be issued against the Crown but a definite obligation is laid upon the Treasury and other Government departments to pay damages as costs awarded against them. (*c*) *Discovery.*—The Crown may be ordered to deliver lists of documents, and an officer of the Crown may be ordered to answer interrogatories, subject to safeguards preventing the disclosure of documents or information which it would be contrary to the public interest to disclose. (*d*) *Interpleader.*—The Crown may be made a party to and may make use of interpleader proceedings in the same way as a private subject, thus removing the inconvenience illustrated by *The Mogileff* (No. 2), 1922, P. 122.

Such is a bare summary of a Bill of the greatest importance to the private subject and to the legal profession whose duty it is to secure for him his due rights against the Crown and its departments. The Bill bears the mark of the most careful thought and preparation, though there are doubtless many criticisms which more detailed scrutiny will produce. We incline to think that the official element on the Committee was somewhat two strong, and that, if anything, the interests

of the departments are even yet too jealously safeguarded. If some body of non-official experts could be found who would devote themselves to a study of the Bill purely from the point of view of the private citizen, it is possible that improvements might be suggested and a wider measure of public support secured.

A Conveyancer's Diary.

Re Leigh's S.E., 70 Sol. J. 758; 1926, Ch. 852, reconsidered: _Re Leigh's S.E._, No. 2, 71 Sol. J. 369.

Contrary perhaps to a somewhat general expectation in Lincoln's Inn, Mr. Justice Tomlin, when reconsidering *Re Leigh's S.E.*, adhered to the construction which he had (see 70 SOL. J. 758), before the passing of the L.P. (Amend.) A., 1926, put upon the expression "immediate binding trust for sale" in relation to S.L.A., 1925, s. 20 (1) (viii). It has been urged (see 70 SOL. J., pp. 1154-5), and this is the view which we in practice adopted until Tomlin, J.'s decision at the beginning of last month, that the expression "binding" which occurs in the definition of a trust for sale in the new Acts bore a different meaning from the expression "overreaching" as that expression is commonly understood. The L.P. (Amend.) A., 1926, appeared to us to confirm the view which we had formed. Our view has proved not to be the correct one, and we have now judicial authority for the proposition that an immediate binding trust for sale means an immediate overreaching trust for sale—a trust for sale that is immediately operative and binds, because by its mere exercise it *ipso facto* overreaches, all interests in the land which forms the subject-matter of the settlement.

For practical purposes it really makes very little difference where the exact boundary line between settled land and land held upon trust for sale is actually drawn. The important thing is that the line should be drawn distinctly and in such a manner that those who run may see and not mistake it, and after mistaking it then give or accept bad title in consequence. The great advantage of *Re Leigh's S.E., No.* 2, is that the matter is now put beyond doubt. Incidentally it prevents from arising the difficult problem which, had the alternative meaning been adopted, would inevitably have arisen, i.e. "what overreaching effect has an immediate binding trust for sale?"

Now it does not necessarily follow that whenever the expression "trust for sale" is used in the new Acts it has of necessity the same meaning, i.e., the meaning given to it by the definition clauses of the various statutes. On the contrary it may bear several different meanings in the same Act; the definition only indicates its meaning in a particular section "unless the context otherwise requires." Mr. Justice Tomlin in *Re Leigh, No.* 2, held that the context *does* require a different meaning to be given to the words in L.P.A., 1925, s. 2 (2) (as amended), for otherwise the whole of that section would become meaningless. For the purposes of S.L.A., 1925, ss. 1 (7) and 3, as well as *ib.*, s. 20 (i) (viii), a trust for sale means an immediate *overreaching* trust for sale: *Re Leigh. No.* 2. And a trust for sale which is made capable of overreaching and so binding all interests in the land affected pursuant to L.P.A., 1925, s. 2 (2), as amended, thereby becomes an immediate binding trust for sale.

It thus appears that there may be paramount and overreaching trusts for sale both having the same effect.

An ordinary paramount trust for sale arises where the equitable interest is created *after* the trust for sale.

[Owing to a printer's error the reference in "A Conveyancer's Diary," on p. 344, line 42, was made to read "L.P.A., 1925, 9th Sched.," and not "L.P.A., 1924, 9th Sched.," as it should have read. Of course, there are not nine schedules to the Act of 1925, and no doubt our readers were able immediately to correct the error. We have so frequently referred in these columns to "L.P.A., 1925" that our printers find it hard to conceive that such a statute as L.P.A., 1924, appears on the Statute Book.—ED., *Sol. J.*]

By statute (see L.P.A., 1925, 1st Sched., Pt. IV, para. 1 (3), as amended, and S.L.A., 1925, s. 36 (2)) a trust for sale may be made paramount, that is to say, the equitable interest is made to take effect in respect of the proceeds and of the rents until sale, as if the interest had been created *after* the trust for sale. The equity is thus put behind the trust independently of any sale, etc., pursuant to the trust.

An overreaching trust for sale, i.e., where a trust corporation is acting or trustees have been appointed or approved by the court (L.P.A., 1925, s. 2 (2), as amended), does not become paramount *till* a sale is effected under the trust, or the trustees for sale exercise their statutory powers (e.g., a power of leasing under *ib.*, s. 28).

It seems then that the profession are under an obligation to Tomlin, J., in arriving at a solution which is simple, effective and, it seems, in accordance with the scheme of the Acts.

Landlord and Tenant Notebook.

What is a "Notice to Quit" within para. (_c_) of s. 4 "5" (1) of the Rent Act, 1923.

An important judgment on the question of what is a sufficient notice to quit for the purposes of para. (*c*) of s. 4 "5" (1) of the Rent and Mortgage Interest Restrictions Act, 1923, was delivered by the Divisional Court in *De Vries* v. *Sparks, The Times*, 29th April.

Paragraph (*c*) of s. 4 "5" (1) of the Rent and Mortgage Interest Restrictions Act, 1923, provides that "No order or judgment for the recovery of possession of any dwelling-house to which this Act applies, or for the ejectment of a tenant therefrom, shall be made or given unless: (*c*) the tenant has given notice to quit, and in consequence of that notice, the landlord has contracted to sell or let the dwelling-house or has taken any other steps as a result of which, he would, in the opinion of the court, be seriously prejudiced, if he could not obtain possession."

In *De Vries* v. *Sparks, supra*, the court had to consider whether in the following circumstances a sufficient notice to quit had been given by the tenant, in order to entitle the landlord to claim possession of the premises under para. (*c*). The tenant in this case had occupied the premises for many years, and in May, 1926, being minded to quit them, she wrote to the landlord, that she would give up possession in or about September. The landlord agreed to give her £30, as she was willing to give up possession, and a sum of £10 on account was paid by him to the tenant, who signed a receipt in the following terms: "Received £10 on account of £30 for giving up possession of 38 D— Street, on or before September 25, 1926." The tenant, moreover, was allowed to occupy the house *rent free* in the meantime. [This fact is of importance because it has a material bearing on another point, which however was not apparently raised in the case at all.] The landlord subsequently contracted to sell the house, but eventually the tenant changed her mind and refused to vacate the premises.

Before dealing with the question as to whether a sufficient "notice to quit" had been given, attention might briefly be drawn to the point referred to above, which was not raised at all.

It is material to observe that the agreement between the landlord and the tenant was to the effect that the tenant might occupy the premises *rent free* in the meantime. According to s. 12 (7) of the Rent Act, 1920: "Where the rent payable in respect of any tenancy of any dwelling-house is less than two-thirds of the rateable value thereof, this Act shall not apply to that rent or tenancy, nor to any mortgage by the landlord from whom the tenancy is held of his interest in the dwelling-house, and this Act shall apply in respect of such dwelling-house as if no such tenancy existed or ever had existed."

It is submitted, therefore, that inasmuch as the tenant was occupying the premises rent free, so that the rent was obviously

less than two-thirds of the rateable value of the premises, s. 12 (7) applied, and that therefore the landlord was entitled *as of right* to an order for possession, quite irrespectively of para. (*c*) of s. 4 " 5 " (1) of the Rent Act, 1923.

To turn now, however, to a consideration of that provision. The main question would appear to be whether by the expression " notice to quit " is meant a proper legal notice to quit, or, on the other hand, any sufficient indication on the part of the tenant to quit the premises by a certain date.

Gilbert v. *Jordan*, 1920, W.N. 309, is the first reported case decided under the above paragraph (i.e., in the 1920 Act). There the plaintiff had purchased premises, which at the time of the purchase were in the possession of the defendant as tenant thereof, for a term of three years from 9th May, 1916, and on the expiration of that term for a further period of one year certain, expiring 9th May, 1920. On the 15th March, 1920, the plaintiff, after purchasing the house, wrote to the defendant asking him if he was arranging to vacate the premises on the expiry of his tenancy, as he the plaintiff was offering the freehold for sale with possession on completion. The defendant replied that the premises would be given up " at the time and to the person legally entitled," but added that it would be a convenience to him if he could remain on till 24th June. To this request the plaintiff acceded. Lawrence, J., held that the defendant's undertaking to give up possession was equivalent to a " notice to quit " for the purposes of para. (*c*).

It would seem to be tolerably clear from the above decision that Lawrence, J., did not construe the expression " notice to quit " in its strict sense, though the Divisional Court in *De Vries* v. *Sparks* would explain Lawrence, J.'s decision in *Gilbert* v. *Jordan* as being based on an inaccurate view of the facts (i.e., that there was a " notice to quit "), and as not laying down that an agreement between the parties that the premises should be vacated could constitute a notice to quit. This explanation of *Gilbert* v. *Jordan*, however, appears to be a somewhat strained one, and it would be better to say that Lawrence, J., in that case did lay down the proposition that an agreement to vacate would amount to a " notice to quit," not, of course, in the strict sense, but for the purposes of para. (*c*), and that that decision was wrong.

Indeed, it is difficult to reconcile *Gilbert* v. *Jordan* with some of the *dicta* in *Standingford* v. *Bruce*, 1926, 1 K.B. 466. There premises were let in 1917 to one, Wheeler, on a weekly tenancy. In June, 1923, Wheeler sublet two of the rooms to the defendant. In May, 1924, Wheeler left the premises without giving the landlord any notice, but merely returning the key to her by post. It was held on these facts that no " notice to quit " had been given, and that para. (*c*) did not apply. In his judgment, Shearman, J., after referring to *Gilbert* v. *Jordan*, and stating that no considered judgment had been given in that case on the point whether there had been a notice to quit within the meaning of para. (*c*), added : " *The words 'notice to quit' have a technical meaning*, and I do not think there was a notice to quit in this case " (i.e., in *Standingford* v. *Bruce*).

The view taken by the Divisional Court in *De Vries* v. *Sparks* was similar, the court being of opinion that the agreement to vacate did not amount to a " notice to quit." The judgment of Salt r, J., on the point is instructive. The learned judge said that " it was plain that under s. 4 ' 5 ' (1) (*c*) of the Rent and Mortgage Interest Restrictions Act, 1923, the notice to quit might be either a notice by a common law tenant given while the common law tenancy still subsisted, or a notice by a statutory tenant given after the relation of the parties had become statutory. It was not necessary to consider the kind of notice to quit that had to be given by a statutory tenant, because here the tenant, if she gave a notice to quit at all, gave it while she was still a common law tenant. A notice to quit within the meaning of s. 4 (1) (*c*) was one that would be valid at common law and one which would have the effect of determining an existing common law tenancy against the will of the landlord . . . a notice to quit, and an agreement to surrender or determine a tenancy were essentially different in their nature. An agreement depended on the consent of the parties, while a notice to quit was a notice given by the one party to the other of an intention to exercise a right given by the contract, whether the other party liked it or not."

As the authorities therefore stand at present, the expression " notice to quit " in para. (*c*) must be construed strictly in a technical sense, and it may be doubted whether this was intended by Parliament, since the result of so holding appears to exclude from the provisions of para. (*c*) all cases where there has been an agreement to surrender, or where the tenant for a term certain has given notice to his landlord, which, of course, he is not required by law to give, that he is vacating the premises on the expiry of the term. In all such cases it seems that the landlord cannot rely on the provisions of para. (*c*), however much he might be embarrassed or prejudiced by reason of the tenant stating that it is his intention to vacate. The result, therefore, is that no heed may in such cases be given to the equitable principle that a person cannot either by active interference or by deliberate acquiescence stand by and allow a state of things to be created from which the landlord cannot escape except by a breach of his contract of sale.

Moreover, if " notice to quit " is to be construed in its strict technical sense, what is to be said about the statutory tenant ? Paragraph (*c*) equally applies to a statutory as it does to a contractual tenant, and a statutory tenant is, by s. 15 (1) of the Rent Act of 1920, entitled to give up possession of the dwelling-house, " only on giving such *notice* "—and the expression " notice to quit," it should be observed, is not employed—as would have been required under the original contract of tenancy, or, if no notice would have been so required, on giving not less than three months' notice. The " notice " to be given by a statutory tenant can scarcely be said to be the same as a " notice to quit " for the purpose of determining a common law tenancy, and it might therefore be argued that if " notice to quit " in para. (*c*) was construed in its strict technical sense, the object of para. (*c*) would for all purposes be defeated, since statutory tenants would not come within the scope of its provisions. If, on the other hand, it is said that the expression " notice to quit " in para. (*c*) includes the " notice " which a statutory tenant is entitled to give, then it is submitted that " notice to quit " cannot be construed in its technical sense.

The whole purpose of the above paragraph was aimed at protecting landlords who had entered into contracts for the sale or letting of premises, which the sitting tenant had intimated his intention of vacating. It is submitted, therefore, that on a proper construction of that paragraph, the expression " notice to quit " must not be construed in its strict technical sense, and that it will include any clear intimation on the part of the tenant that he intends to vacate the premises, whether this intimation is conveyed by means of an agreement to surrender or to vacate, or a mere intimation to yield up possession accepted by the landlord, or by a proper notice to quit.

EIGHTH INTERNATIONAL CONGRESS OF ACTUARIES.

27TH TO THE 30TH JUNE, 1927.

The Delegates to the Eighth International Congress are to be well catered for during their stay in the capitals of both England and Scotland. During their stay in London they will be entertained at an official banquet at the Guildhall, when many notabilities will be present, and subsequent to the main purpose of the Congress the members will make a motor tour through England to Edinburgh, and *en route* will be entertained by the Lord Mayor and Corporation of Birmingham. Members of the Congress will be entertained by the Provost of Edinburgh, and subsequently will have a choice of golf or visiting the Trossachs or some other of Scotland's beauty spots

Deposits on Sales of Land: Position of Vendor and Purchaser.

(*Continued from p.* 347.)

The deposit having been paid or agreed to be paid, if the contract is duly completed, no question arises. The deposit is taken in part payment of the purchase money. If, however, either the purchaser or the vendor makes default, questions of considerable difficulty may arise. To deal first with the default of the purchaser. As I have already mentioned, in sales of land by auction, the conditions of sale usually provide that if the purchaser fails to comply with any of the conditions his deposit shall be absolutely forfeited, and the vendor shall be at liberty (without being obliged to tender a conveyance) to re-sell the property by public auction or private contract, and the deficiency (if any) arising on such re-sale, and all expenses attending the same and any attempted re-sale, shall be made good and paid by the purchaser at the present sale as liquidated damages, and any increase on such re-sale shall belong to the vendor. Any such condition should now be qualified by the words " unless the Court otherwise directs." The insertion of these words has been made necessary by the Law of Property Act, 1925. Before that Act, though a purchaser might be able successfully to resist specific performance, he could not recover his deposit, if he had taken an objection which he was precluded from taking either by some statutory provision such as s. 3 of the Conveyancing Act, 1881, which requires a purchaser of a lease to assume (unless the contrary appears) that that lease was duly granted, or by the contract. As illustrations may I refer to three cases with two, at any rate, of which you are all very familiar. In *Re National Provincial Bank of England and Marsh*, 1895, 1 Chancery, at p. 190, freehold land was sold under the condition that the title should commence with a conveyance of 1869, and that the prior title should not be required, investigated or objected to. The purchaser discovered from outside sources that the grantor in the Deed of 1869 had only a life estate. The purchaser insisted on this objection, and took out a vendor and purchaser summons for the return of his deposit. Mr. Justice North said that the vendors might have a difficulty in enforcing specific performance, but held that the purchaser had no right, having regard to the terms of the contract, to the return of his deposit.

In *Re Scott and Alvarez's Contract*, reported in 1895, 1 Chancery, at p. 596, and 2 Chancery, at p. 603, land held under an underlease was sold under a condition that the purchaser should make no objection as regards the intermediate title between the underlease and an assignment in 1891, but should assume that such assignment vested in the assignee a good title for the residue of the term. It was afterwards discovered by the purchaser that there was a vital defect in the intermediate title and that the assignee had no title to the property, and, though specific performance was refused, it was held by the Court of Appeal that the purchaser was bound by his contract and could not recover his deposit.

In *Beyfus* v. *Lodge*, reported in 1925, Chancery, at p. 350, a purchaser agreed to buy two leasehold houses and paid a deposit, and completion was fixed for the 21st August, 1924. Under the lease the vendors were bound to do the inside and outside repairs. The conditions of sale provided that the purchaser should execute all necessary repairs. Requisitions were delivered, in answer to one of which the vendors said they were not aware of any notices from the landlords. Though this answer was made in good faith, in fact the vendors had received landlords' notices on the 7th July, 1924, to make good dilapidations. On the 20th August, 1924, the vendors discovered their mistake and sent copies of the notices to the purchaser, who declined to complete unless the vendors complied with the notices at their own expense. The vendors sued for specific performance, and the purchaser counter-claimed for rescission and return of his deposit. It was held by Mr. Justice Russell that, the vendors having concealed a material fact which it was their duty to disclose, it was not just to grant them specific performance, but that in order to succeed on his claim for his deposit the purchaser must, in accordance with the principles laid down in *In re Scott and Alvarez's Contract*, show a case for rescission of the contract, and that as he had failed to do this he could not recover his deposit.

Sub-section (2) of s. 49 of the Law of Property Act, 1925, provides that, where the court refuses to grant specific performance of a contract, or in any action for the return of a deposit, the court may, if it thinks fit, order the repayment of any deposit.

The note on the sub-section in " Wolstenholme and Cherry's Conveyancing Statutes," 11th ed., Vol. I, p. 218, expresses the view that this sub-section overrules *Re National Provincial Bank and Marsh* and *Re Scott and Alvarez's Contract* so far as relates to the question of deposit, and that, as the question of the return of the deposit is now left for the decision of the court, this will alter the usual power to re-sell on default by a purchaser.

In " Key and Elphinstone Precedents in Conveyancing," 12th ed., Vol. I, Pt. I (note (*b*), p. 263), it is stated that the destination of the deposit is now in the discretion of the court, whether it be made the subject of express stipulations or not. It remains to be seen how wide an interpretation will be given to this sub-section, but at any rate the three decisions which I have mentioned and others decided in accordance with the same principles cannot now be relied upon.

Where there is an express condition for forfeiture, if time is of the essence of the contract, the right of forfeiture is exercisable when non-performance or non-observance on the part of the purchaser is finally ascertained, that is, at the date for performance or observance named in the contract. But if time is not of the essence of the contract, the court can relieve against the condition (see *Lennon* v. *Napper*, 2 Schoales and Lefroy, at p. 682), where Lord Mansfield, at p. 684, said: " In the case of an estate sold by auction, there is a condition to forfeit the deposit if the purchase be not completed within a certain time; yet the court is in the constant habit of relieving against the lapse of time, and so in many instances relief is given against mere lapse of time, when lapse of time is not essential to the substance of the contract." When time is not originally of the essence of the contract, and the vendor has subsequently given the purchaser reasonable notice to complete within an extended time and made the extended time of the essence, the purchaser will be treated as in default, if he fails to complete within the extended time; and in such case it seems that the deposit can be forfeited under the conditions, or under the general law. Though this last point does not appear to have been decided, this view is expressed in " Webster on Conditions of Sale," 3rd ed., at p. 417, and would appear to be well founded.

Where the contract gives the vendor no express right of forfeiture, the right is only exercisable when, in the first place, the parties intended the deposit should be forfeited where the contract went off by the purchaser's default, and, in the second place, when—there being no default on the part of the vendor—the purchaser has expressly or impliedly repudiated the contract. With regard to the first point, in *Palmer* v. *Temple*, 9 Adolphus & Ellis, at p. 520, the law is stated as follows: " In the absence of any specific provision the question whether the deposit is forfeited depends on the intent of the parties to be collected from the whole instrument." In that case the sale was expressed to be made in consideration of £300 paid " by way of deposit and in part of " the purchase money, and there was a clause providing that in case of non-completion the party in default should pay the vendor £1,000 as liquidated damages. The purchaser made default. It was held that the deposit of £300 was not forfeited, since the clause as to the £1,000 showed it was the intention of the parties to give

the vendor £1,000 and no more by way of damages for the purchaser's default. With regard to the second point, in *Howe* v. *Smith*, at p. 99, Lord Justice Bowen said: "We have to look to the conduct of the parties and to the contract itself, and putting the two things together to see whether the purchaser has acted not merely so as to break his contract, but to entitle the other side to say he has repudiated and no longer stands by it." In that case the purchaser paid £500 "as a deposit and in part payment of the purchase money." There was no provision for forfeiture of the deposit, but the agreement stipulated that, in case of the purchaser's default, the vendor should be at liberty to re-sell, and recover the deficiency on the second sale and expenses as liquidated damages. The contract was dated the 24th March, 1881, and provided for the payment of the balance of the purchase money on the 24th April, 1881. Completion of the purchase was delayed by the purchaser, and the vendor, after pressing for completion, agreed on the 20th June, on payment of certain costs, to extend the time for completion for a month, but at the same time warned the purchaser that, unless the purchase money was then paid, he would re-sell the property. On the 25th July the purchaser, fearing the vendor would re-sell the property, brought an action against the vendor for specific performance of the agreement. After action brought the vendor re-sold at the original price. It was held by Mr. Justice Kay that the purchaser could not recover his deposit, and this decision was affirmed by the Court of Appeal (27 Chancery Division, at p. 89). Lord Justice Cotton, at p. 95, said: In order to enable the vendor "to retain the deposit there must be acts on the part of the purchaser which not only amount to delay sufficient to deprive him of the equitable remedy of specific performance, but which make his conduct amount to a repudiation on his part of the contract," and at p. 104 Lord Justice Fry said: "The purchaser has in my opinion been guilty of such delay, whether measured by the rules of law or equity, as deprives him of his right to specific performance, and of his right to maintain an action for damages, and under these circumstances I hold that the purchaser has no right to recover his deposit."

Mere delay by a purchaser, even for a very long period, does not necessarily amount to repudiation. Where there is delay on the part of the purchaser in making payments provided for by the contract, and the vendor is desirous of treating the contract as repudiated by the purchaser, the vendor ought to be careful to give the purchaser reasonable and specific notice that if payment is not made within a specified time he will treat the contract as abandoned. In *Cornwall* v. *Henson*, 1900, 2 Chancery Division, at p. 298, land was sold for £150 in August, 1892, to a purchaser, who took possession and paid all the instalments of purchase money except one. The vendor called on him to pay this instalment, but did not give him any such notice as above mentioned. In 1896 the purchaser gave up possession and disappeared; the vendor resumed possession, and in March, 1898, let the property for three years to a tenant who entered on the property. In June, 1898, the purchaser re-appeared and offered to pay the last instalment, and in July, 1898, commenced proceedings for specific performance and damages. It was held that, though he was not entitled to specific performance, he was entitled to damages, which were assessed at £126. The Master of the Rolls, at p. 202, said: "I cannot find any intention on the part of the purchaser to abandon the contract, or that sufficient notice was given to him by the vendor that if the last instalment was not paid within a specified time the contract must be considered as at an end." But the protestations of the purchaser, that he desires to complete, will not avail him if the delay is so great as to amount to constructive repudiation. Lord Justice Fry, at p. 104 of *Howe* v. *Smith*, said: "I find such a protracted default on the purchaser's part, notwithstanding the urgency of the vendor, as in my opinion justified the vendor in treating the purchaser as refusing to complete (notwithstanding his protestations of good intentions for the future) and as further justified the vendor in treating the contract as rescinded."

The common form condition already referred to gives the vendor power, upon the purchaser's default, to re-sell and to recover, in addition to his expenses, any deficiency of price on the re-sale as damages. On the purchaser's default the vendor has, with regard to selling the property, an alternative remedy; he may either affirm the contract and sell under the clause, or rescind the contract and sell under his absolute title. If he acts under the clause, he must bring the deposit into account in his claim for the deficiency, but if he sells as owner he may retain the deposit, but loses his claim for the deficiency under the clause in question. Whether the vendor sells under an express power in the form already mentioned, or as owner, he could before the Law of Property Act, 1925, not only retain the deposit, but also the surplus over the original price without accounting for the amount of the deposit, but it remains to be seen whether this will continue to be the case since the Law of Property Act, 1925.

Where a purchaser commits such a breach of the contract as discharges the vendor from his obligation under the contract, the vendor is entitled at his election either to rescind the contract and to sue generally for damages, that is, on the footing of restitution to his former position, or to affirm the contract and sue either for specific performance or for the damages sustained, that is to say, the difference, if any, between the price agreed to be paid and the value of the land as remaining on his hands at the date of the breach and considered as security for realising the deficiency in the sum which the purchaser agreed to pay.

A question of difficulty arises as to whether the deposit must be brought into account as against any such damages. "Williams on Vendor and Purchaser," 3rd ed., Vol. II, pp. 1012 to 1027, in a learned disquisition on the subject, expresses the view that, though, where a vendor lawfully rescinds a contract for the purchaser's breach or renunciation of it, he can, in addition to forfeiting the deposit, recover any expenses to which he has necessarily been put, where a vendor elects to affirm the contract, he must bring the deposit into account against any damages he may recover. But there are some authorities which raise a doubt as regards this latter question.

In *Icely* v. *Grew*, reported in 6 Neville and Manning, at p. 467, where in a contract of sale one of the conditions was that if the purchaser failed to comply with any of the conditions, the deposit (which amounted to 30s.) should be forfeited as liquidated damages, it was held that such condition formed no qualification of the general promise to complete the purchase, and that on wrongful abandonment of the contract by the purchaser the vendor might recover damages beyond the forfeited deposit, and £8 damages were awarded. In a note on page 469 it is stated that it did not appear whether, in assessing damages, the jury gave credit for the sum received as a deposit or not, but that it would seem that, upon the entire damages sustained by the vendor being ascertained, the purchaser would be entitled to have the amount of the deposit recouped from such entire damages.

In *Essex* v. *Daniell*, Law Reports, 10 Common Pleas, at p. 538, the conditions of sale provided that "should the purchaser fail to comply with any of the . . . conditions his deposit should be forfeited to the vendor, who should be at liberty to re-sell the property, and if the amount which should be obtained by such second sale should not be sufficient to cover the amount bid for the same at the present sale and all the expenses of or incidental to the present sale, the deficiency should be paid by the defaulter to the vendor." The purchaser said a deposit, but failed to complete the purchase. There was no re-sale, though there was an abortive sale. It was held that the vendor was entitled to retain the deposit, and also to recover the auctioneer's charges for the abortive sale and

the costs incurred by him in preparing to complete the sale. Lord Chief Justice Coleridge, at p. 548, said: "The deposit is absolutely forfeited, and the property not having been re-sold the expenses to which the vendor has been put with reference to the abortive sale are recoverable from the purchaser plus the deposit money." Mr. Justice Brett, at p. 553, said: "By the conditions of sale the deposit was absolutely forfeited upon the purchaser's default and the vendor was also entitled to recover the expenses he has incurred . . . He is also entitled to retain the deposit money of £200." The view is expressed in "Williams on Vendor and Purchaser," at p. 1024, that the decision is incorrect, and that there was mistakenly applied to the case of a claim for damages in affirmation of the contract the principles properly applicable in the case of rescission of the contract. In "Webster on Conditions of Sale," 3rd ed., p. 420, and in "Mayne on Damages," 8th ed., p. 248, *Essex* v. *Daniell* is cited without criticism.

In *Dewar* v. *Mintoft*, reported in 1912 2 King's Bench, at p. 373, a contract contained a provision for forfeiture of the deposit on the purchaser's default and for re-sale and recovery of the diminution in price on and expenses of any re-sale after taking into account the deposit. The purchaser did not pay the deposit, and the actual damage suffered by the vendor was less than the amount of the deposit. The vendor was held entitled to recover the amount of the deposit and not merely the actual damage suffered by him. There was, however, no claim by the vendor in this case to have the deposit and damages as well. This decision was not followed on one point, not material hereto, in *Cohen* v. *Roche*, 1927; 1 King's Bench, at p. 169, and is doubted in *Williams*, at p. 1020, on the ground that it is inconsistent with the principle that a vendor affirming a contract and suing for damages thereunder should not treat a deposit paid as a payment of part of the purchase money to be brought into account as such, and the view is suggested that the case should only be treated as a decision that where a deposit is stipulated for and is not paid the vendor is entitled to recover the amount thereof so that he may then rescind the contract and keep the deposit as forfeited.

Though on principle it would seem reasonable that where a vendor sues for damages, on the footing that he affirms the contract, the deposit should be brought into account as against the damages recoverable, yet the matter cannot be regarded as well settled. If the contract has once been put an end to in consequence of the purchaser's default, and the deposit forfeited under a condition in the contract, the forfeiture remains good notwithstanding the subsequent discovery of a defect in the vendor's title which would have enabled the purchaser, if he had discovered the defect in time, to rescind and recover his deposit. In *Soper* v. *Arnold*, 14 Appeal Cases, at p. 429, the contract provided that if the purchaser failed to comply with the conditions the deposit should be forfeited to the vendor, who should be at liberty to proceed to another sale. The purchaser paid a deposit and accepted the title, but when the time for completion arrived he could not provide the residue of the purchase money. The vendor thereupon gave the purchaser notice that the contract was rescinded and the deposit forfeited. Three years afterwards the vendor having arranged to sell to another purchaser, it was held that the title was bad owing to a defect which had appeared on the face of the abstract delivered to the first purchaser. The first purchaser thereupon brought an action to recover his deposit on the ground of mutual mistake and failure of consideration. But the House of Lords held that the title having been accepted and the deposit forfeited solely in consequence of the purchaser's default, he could not recover the deposit.

To deal last with the right of recovery of a deposit by a purchaser. Apart from any alteration introduced by the Law of Property Act, 1925, where the vendor commits such a breach of the contract as discharges the purchaser from his obligation under the agreement, the purchaser is entitled either to rescind the contract, or to affirm it and sue upon it for damages for the breach. In either case, the purchaser can recover his deposit with interest at 4 per cent. per annum. As already mentioned, prior to the Law of Property Act, 1925, a difference existed between the case where a vendor was suing for specific performance and the case where a purchaser was suing for the return of his deposit. The most common cases in which the purchaser has been held to be entitled to recover his deposit with interest have been where the vendor has made an essential misdescription, whether fraudulently or not, or his title is defective in an essential matter.

The fact that the purchaser has, by delay, lost the right to specific performance, does not disentitle him from recovering his deposit (see *Levy* v. *Stogdon*, reported in 98 1 Chancery Division, at p. 478, and in 99 1 Chancery Division, at p. 5).

There are two common conditions with regard to error, the effect of which on the purchaser's right to recover his deposit should be considered. The first of such conditions is to the effect that "no error or misdescription shall annul the sale but the purchaser shall be entitled to compensation." If the vendor has been guilty of fraud, or if the misdescription or defect in title is essential, or such that compensation cannot be fairly assessed, the purchaser may, notwithstanding such a condition as above mentioned, rescind the contract and recover his deposit. The second of such conditions is to the effect that "no error or misdescription shall annul the sale, and *no* compensation shall be allowed to the purchaser." If the vendor has been guilty of fraud, the purchaser can, despite such a condition, recover his deposit. Where the vendor has been guilty of an essential misdescription or there is an essential defect in his title, it would seem that the purchaser's rights are the same as in cases where the condition allows compensation. Indeed, as was pointed out by Mr. Justice Buckley, in *Jacobs* v. *Revell*, reported in 1900, 2 Chancery Division, p. 858, and p. 864, the case is stronger in favour of the purchaser where there is a condition excluding compensation. A purchaser who rescinds a contract and is entitled to recover his deposit has an equitable lien on the land sold for his deposit and interest. This lien arises in every case where the purchaser validly rescinds a contract and not only where this is done under an express power in the contract. The purchaser's lien is a right similar to and enforceable in the same manner as the vendor's lien for unpaid purchase money.

In *Rose* v. *Watson*, reported in 10 House of Lords Cases, at p. 672, Lord Cranworth said: "Where a purchaser has paid his purchase money though he has got no conveyance, the vendor becomes a trustee for him of the legal estate, and he is in equity considered as the owner of the estate. When, instead of paying the whole of his purchase money, he pays a part of it, it would seem to follow as a necessary corollary that, to the extent to which he has paid his purchase money, to that extent the vendor is a trustee for him; in other words, that he acquires a lien exactly in the same way as if, upon the payment of part of his purchase money the vendor had executed a mortgage to him of the estate to that extent." In that case a vendor sued a purchaser for specific performance of a contract to buy a building estate. The action failed, and the purchaser filed a bill to enforce his lien on the estate for his deposit and instalments of purchase money with interest. The House of Lords held that the purchaser was entitled to a lien in priority to persons to whom, after the contract, the vendor had mortgaged the property; and that even though some of the purchaser's payments were made after he had notice of the mortgage. The purchaser has a lien for his deposit not only where the contract goes off for want of the vendor's title, but also where it is rescinded under a condition enabling the vendor or purchaser to rescind, provided the contract does not go off owing to the default of the purchaser. A purchaser who repudiates a contract on the ground that it does not comply with s. 40, s-s. (1) of the Law of Property Act, 1925 (which replaces part of s. 4 of the Statute of Frauds) is not entitled to the return of his deposit (see *Monnickendam* v.

Leause, 39 Times Law Reports, at p. 445). Mr. Justice Horridge, in his judgment, at p. 447, said: "In his opinion there being on the facts . . . a good contract, but one which could not be enforced under the Statute of Frauds, and the deposit having been paid in pursuance of that contract and the vendor being entitled to hold it as security against the purchaser's not choosing to go on with the transaction, there has been no total failure of consideration which would entitle the purchaser to recover his deposit." But a purchaser who pays a deposit under an agreement to purchase "subject to a proper contract," and then refuses to sign a proper contract tendered by the vendor, can recover his deposit (*Chillingworth* v. *Esche*, 1924, 1 Chancery Division, at p. 97, a decision of the Court of Appeal) on the ground that the document was only conditional and did not constitute a firm contract. In his judgment Lord Justice Warrington, at p. 112, said: "The purchasers contend that this is a deposit paid in anticipation of a final contract, and nothing more. This seems to me to be the true view," and Lord Justice Sargant, at p. 114, said: "One of the obvious objects of the payment of a deposit in such a case where there was no definite contract was that it should form a deposit in the ordinary way if and when the contemplated definite contract was subsequently signed and executed, and that it was not necessary to assume any additional object such as that the purchaser was giving an interim guarantee that he would enter into a reasonable contract."

There is nothing left for me except to thank you most heartily for the honour which you have conferred upon me, and also for the patience with which you have listened to me, and also to congratulate you and myself upon the fact that we have as our Chairman this evening so distinguished and, if I may be allowed to say so, so popular a member of our profession. (Cheers.)

Mr. Fowler proposed and Mr. Brown seconded a vote of thanks to the Chairman for presiding, to Mr. Galbraith for his invaluable lecture, and to the Benchers of Lincoln's Inn for the use of the Hall, which was carried by acclamation.

Lord Justice Sargant in responding said: "Ladies and Gentlemen, may I say in the first place that I do not think I need say anything with regard to the Benchers of this Inn, because you know that they would have welcomed you at the Old Hall if it had not been for its rather draughty condition at the present time. This is not the sort of evening for a sliding roof entertainment. (Laughter.)

In responding to the vote of thanks which has been so kindly moved and seconded, I think I ought to respond for Mr. Galbraith first. That is only ordinary good manners. Mr. Galbraith has really provided an intellectual treat. His address has been at once concise and full, and I am sure extremely accurate. I can speak of Mr. Galbraith's accuracy, because for a number of years, while I was a judge of the Chancery Division, Mr. Galbraith practised before me. I can well remember both the conciseness and accuracy of his arguments. At the present time I have not the pleasure of seeing quite so much of him as I had then. Then it was a daily pleasure to see him before me. Now it is only on comparatively rare occasions that I have that happiness. I trust that his address will be in some way or other reproduced in a permanent form, because it seems to me to contain so much valuable matter that it would be a pity if it were not reproduced so that it might be consulted at leisure by all those who have to deal with this subject. I must say, like Mr. Fowler, that I found it difficult to absorb the many phases of this interesting but very complicated subject. I think the result that might be produced on the minds of many would be, till they had studied the subject, that you should never pay a deposit if you can help it, and that you should never receive a deposit as an auctioneer or even as a solicitor. But deposits have to be paid and have to be received. The general effect of the address is that you ought to be very careful indeed in touching or dealing with deposits.

Now, speaking for myself, I am afraid I have not prepared any notes of what I have to say to you. I feel in some respects rather like the Scotch Minister who had to deliver his first sermon to a new congregation. Unfortunately, in the stress and hurry of the moment, he came from his home leaving his sermon behind him. Accordingly he delivered such an address as he could. At the end of it he explained the difficulty and said that he had only used words which the Lord had put into his mouth, but that he would do better on the next occasion. (Laughter.) I assure you it is a great pleasure to me to be present on an occasion of this kind. I realise the eagerness and keenness which you display in your work, that at the end of a hard day's work towards the close of a heavy week you should come here and apply your minds seriously to a very difficult subject with which you have to deal in the course of your profession. I am glad to note that, however strenuous your occupation may be, it does not seem to interfere with length of life, because I notice among other members who are active members of your Society one or two very old friends of mine. My recollection in regard to them goes back very many years. Take for instance Mr. Elphick, of Messrs. Mackrell, Maton & Co. I have had to do with Mr. Elphick for I do not know how many years. Then there is the evergreen Mr. Crane. I may say that I have had appointments with Mr. Crane as managing clerk from the early eighties. If forty or forty-five have left him as young as he still appears to be, I think we may all congratulate ourselves upon this, that the study of the law does not shorten life. When I was at the Bar I always thought how extremely useful and helpful the managing clerks with whom I had to do were. I always felt that I could not have presented a case as well as I did if there had not been a great deal of spade work done quietly by the managing clerk, an amount of spade work which perhaps a client would never appreciate, but which Counsel engaged in the case knows to be invaluable. In the same way, when I was a judge of the Chancery Division, very often I would have managing clerks appearing before me in Chambers. It was quite obvious that they had applied their minds seriously to the difficulties of the case before them, and I could absolutely and entirely trust them. Besides that, they had the most friendly feeling towards each other and never took advantage of each other, an advantage which was an undue advantage. Of course, they pressed their case, and used all proper arguments in support of it, and if an advantage was given to them by the facts of the case, of course, they pressed it home, but in my experience they never made an unfair use of any feature of the case which they should not have used. There was that friendly feeling between them and that same confidence which one observes among Barristers in their daily work. There was also this: There was tact and discretion. There was complete discretion in not letting anything out that should be concealed, except possibly in one case. I am not sure that there may not have been a breach of confidence in one case of a very slight description. It happened that in the course of my practice there was a very critical case with regard to, I think it was, some wicked Defendant who was digging coal just near the canal of a Canal Company in the Midlands. It was vital to the Company that they should get that digging restrained. They started an action for the purpose. The case had been going on for some time, and about six weeks before it was coming on for trial my Solicitor client and his clerk and one or two others paid me a visit. They said: "What are the probabilities of success in this case, because if we fail it will do us great harm?" I considered the matter for some time, and then I said: "I think if I might express it in a sporting way I should say it is seven to two on you." They seemed somewhat amused. I heard no more of the case. Time went by, and some five or six months after the same solicitor, with the same managing clerk, came up to see me on a totally different matter. When that was finished, I said to them: "What about that canal case? I was expecting it would be coming on and that I should have a brief in it, and

so on; what has happened to it?" They said: "A very curious thing has happened; about three weeks after we saw you the Defendant walked into our office and said: 'I have come to settle up that case. I have dreamed that it was seven to two on you.'" (Laughter.) I cannot help thinking that in some way or another somebody had been joking about it—in the office, I should think; or it may have been the client himself—but at any rate in some way or another it had come to the notice of the Defendant, and he then proceeded to dream of it. The result, as it happened, was an exceedingly beneficial one. As I am indulging in reminiscences, might I tell you a story? It was not with regard to a managing clerk, but with regard to a principal. It is a story which I am afraid rather gives me away, but perhaps you will not think worse of it on that account. It happened that on an occasion about a year or two before I went to the Bench the acknowledged head of the profession in the city, a gentleman of the age of about ninety years at that time, and who very seldom came to Counsel's chambers, had a case which worried him exceedingly. He made an appointment to see me about it. He duly came to my chambers. Some of you may have heard this story before, but perhaps you will not mind my telling it again. He sat down in a chair and began in this way: "I am old, I am deaf, and I am stupid." "Oh, no, Sir ——," I said, "I am sure nobody could accuse you of that last fault." "H'm," he said, "I am speaking of my client."

May I conclude by saying how very grateful I am to the proposer and seconder of the resolution, and to you, Ladies and Gentlemen, for the very delightful reception you have given me on this occasion. I wish to thank you most heartily for it. (Applause.)

Correspondence.

Power of Attorney—Stamping.

Sir,—We presented for stamping a power of attorney appointing two persons jointly and severally attorneys and attorney for the usual common objects and lodged 10s. stamp duty. The Controller of Stamps claims that such a power of attorney is liable for 10s. duty in respect of each attorney under the provisions of s. 4 (*a*) of the Stamp Act, 1891.

This appears to us to be a new departure, and, if correct, means that a large number of powers, both past and current, are understamped.

Among other reasons why it seems to us that only 10s. is payable, in spite of there being more than one attorney, is that the instrument is entered into for a common object. It seems not dissimilar to a deed of joint and several covenant.

We are presenting the document for formal adjudication, but we write in advance to warn any of your readers who may be up against the same point to withhold the further duty until the matter is disposed of.

What is your view of the preliminary decision of the Controller?

Norwich. NORVICENSES.
4th May.

The Companies Bill.

Sir,—May I respectfully direct Mr. A. J. Fellows' attention to c. 85 (7) of the Bill, and he will see that "Shares" includes "Stock Bonds, Debentures, Debenture Stock and other Securities." The veto does extend to debentures.

I further submit that after the word "go," in the first line of s. 85, the words "to any House or" should be inserted. A hundred canvassers could each go to one separate house offering the same class of shares, and I submit no offence would be committed as the section stands in the Bill.

As to the *City Equitable Case*, the Board of Trade (Trade Facilities Department) refused to help me in the case of *The Stanton Ironworks Debenture Stock*, and stated that the abominable provisions of the Company's Trust Deed were common form. However, I did get the company committee to support me there. It took me a lot of work to do it.

I did a lot more than that, as I have forced the big insurance companies in which I am a shareholder to give proper auditors' certificates, instead of the anæmic certificate that satisfies the present Companies Act. I didn't get any assistance from anybody whatever, but I persevered. If the big insurance companies had acted as they should have done, and put forward the stringent certificate they have now adopted, the *City Equitables* would have ceased to exist. Perhaps I may qualify for one of Mr. Fellows' watch dogs.

As to directors' remuneration, I never mind saying what I get, and where I am paid by commission, the amount is always stated in full in the report and accounts.

I very recently seconded a resolution for increase of fees, although no specific notice had been given of the proposal, counsel having advised that specific notice was unnecessary. I told my friends I should support the proposal, although I should have stated the increase specifically, and this increase was mentioned at the meeting itself.

I cannot understand how the committee failed to deal with very many points that I gave them, nor have I ever been able to understand why a company can advance on the security of its own shares. A company cannot buy its shares, nor issue them at a discount. I submit that an advance by a company on its own shares is just as objectionable as a purchase.

I have found a horrible "howler" in the Bill, but the letter is too long already.

If you have the space I will send you my recommendation to the committee, who declined to see me as a witness.

Manchester. C. T. HARGRAVES.
2nd May.

[This correspondent is thanked for his reference to c. 85 (7). With respect to his observation as to a company issuing shares at a discount, the Bill, of course, will legalise this if passed in its present form, as Mr. Fellows has pointed out. We note that our correspondent apparently shares Mr. Fellows' views as to the auditor's certificate.—ED., *Sol. J.*]

Books Received.

Mews' Digest of English Case Law. Quarterly issue. April, 1927. Contains Cases reported from 1st January to 1st April, 1927. AUBREY J. SPENCER, Barrister-at-Law. pp. ix and 136 columns. Stevens & Sons, Ltd.; Sweet and Maxwell, Ltd.

Prevention of Bribery. No. 136. April, 1927. Bribery and Secret Commissions Prevention League Incorporated, 22, Buckingham Gate, S.W.

The Law and Practice of Bankruptcy. G. L. HARDY (of the Inner Temple). Third Edition. 1927. Crown 8vo. pp. xv and 266 (with Index). Effingham Wilson, 16, Copthall Avenue, E.C.2. 4s. net.

The New Law of Property. Third Edition, being a Sixth Edition of Topham's Real Property. Showing the principal changes effected by Lord Birkenhead's Act, The Consolidating Statutes of 1925, and the Amending Act of 1926. ALFRED F. TOPHAM, K.C., LL.M. Large crown 8vo, pp. xxxvii and 428, with Index (65). Butterworth & Co. 15s. net.

Some Points of Highway Law. ALEXR. MACMORRAN, M.A., K.C. (Recorder of Hastings), being a series of articles reprinted from THE SOLICITORS' JOURNAL. 1927. Demy 8vo. pp. xiv and 51. The Solicitors' Law Stationery Society, Ltd., 104/107, Fetter Lane, E.C.4; Liverpool, and Glasgow. 2s. 6d. net.

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers are invited and will be answered by some of the most eminent authorities of the day. All questions should be addressed to The Assistant Editor, "The Solicitors' Journal," 94-97, Fetter Lane, E.C.4, be typewritten on one side of the paper only, and be in triplicate. Each copy to contain the name and address of the Subscriber. To meet the convenience of Subscribers, in matters requiring urgent attention, answers will be forwarded by post if a stamped addressed envelope is enclosed.

SETTLED LAND—SALE—TRUSTEE'S REFUSAL TO FUNCTION.

766. *Q.* A testator died in 1921 having made his will by which he left his estate to his widow for life and afterwards upon trust for sale and division. The proving executors are four in number—the testator's widow, son and two daughters. The widow now desires to sell. The son refuses to consent to a sale or to sign any document for the purpose of giving effect to a sale. There are three trustees, without the son, who can execute a vesting deed and give a receipt for the purchase money. Can the son's refusal be overreached without an application to the court?

A. Assuming the estate of the testator was wound up on 31st December, 1925, the widow as tenant for life took the legal estate in the land on 1st January, 1926, under the L.P.A., 1925, 1st Sch., Pt. II, paras. 3 and 6 (*c*), and the trustees are trustees for the purposes of the S.L.A., 1925, under s. 30 (1) (iv). The widow can sell under s. 38, and, if she exercises her power properly, the trustees have nothing to do but to receive the purchase-money, see the observations of Kay, J., in *Hatton* v. *Russell*, 1888, 38 C.D. 334, which are applicable to the new Act, with the substitution of reference to s. 93 of the present Act instead of s. 44 of that of 1882. A purchaser, however, will require and be entitled to the receipt of all the trustees for his money and can refuse to complete until he obtains it. If the son refuses to sign the conveyance in respect of the receipt, his conduct might possibly bring the case within the T.A., 1925, s. 36 (1) as to refusing to act, but a purchaser would probably require a definite renunciation and general refusal before relying on the appointment of a new trustee. In such case, an application to the court would be inevitable, either under s. 41 or otherwise. On the facts stated, however, the opinion may confidently be given that a trustee who acted so unreasonably would have to pay all costs and would be liable for all consequential damage to the estate, and the to widow, if not to the purchaser also. The vesting deed, also to be executed by all the trustees, must of course be precedent to a sale. This, too it is the duty of all the trustees to execute.

SETTLED LAND—RECENT DEATH OF TENANT FOR LIFE—SALE.

767. *Q.* Enclosed is a copy of the material portions of the will of L C., who died on 19th July, 1922, and which was proved on 25th August, 1922. The executorship, as such, was completed soon after the grant of probate. G W, one of the executors, died on 25th February, 1925. E C, the widow, enjoyed the use of the freehold house, 59, Weston-road, from the testator's death until her own death on 15th January, 1927. There has been no written assent or any other document signed. The house is unincumbered. F J, the surviving executor, has, since the death of E C, agreed to sell the house, 59, Weston-road, to a purchaser by private treaty. The purchaser has been let into possession by F J, who wants to have the sale and conveyance completed, as also does the purchaser. The testator's children are all willing to join in the conveyance, if necessary, in order to sanction the breach of trust (if in fact there is any trust) involved by the property being sold privately instead of by auction. Did the bequest of "the use of" the house constitute a settlement, and the land settled land, and E C the tenant for life? What steps are necessary to be taken in order to perfect the title, and who will be the vendor (or vendors)? Having regard to the will, and to the fact that the widow was allowed to remain in the use and enjoyment of the house until her death, can a good title be made by the surviving executor conveying as such, by virtue of a statement in writing under s. 36 (6) of A.E.A., 1925? The testator's estate was sworn for duty at £759 4s. 7d. (gross) and Estate Duty amounting to £14 18s. 4d. was paid on his death. The price now being given for the house in question is £576. Does any claim for duty arise on the widow's death?

[ENCLOSURE.]

This is the last Will &c. I appoint G W, of, &c., and F J, of, &c., to be my executors &c. I give and bequeath unto my wife E C the use of my house and furniture and effects 59, Weston-road her to pay the rates and taxes all monies due to me at my decease are to be paid into my banking account at the Lloyds Bank and after all my debts and funeral expenses have been paid my said wife is to receive the interest on the balance for her lifetime. At the decease of my wife my executors shall sell the said house and its effects by auction and after all debts and funeral expenses of my wife are paid the balance together with the money in Lloyds Bank shall be equally divided between my children. If my wife desires to leave the said house I empower my executors with her consent to sell the house and any of the furniture she agrees to be sold previous to her death and the money to be put into the bank and her to receive the interest during her lifetime.

A. From the extract in the will the house was settled land within the S.L.A., 1925, and on 1st January, 1926, vested in E C in fee by virtue of the L.P.A., 1925, 1st Sched., paras. 3 and 6 (*c*), and F J was trustee for the purposes of the S.L.A., 1925, with the duty of appointing a co-trustee under s. 30 (3). It is not stated whether the widow died testate or intestate, but in either case F J has the right to the grant of probate or letters of administration, as the case may be, in respect of the settled land under the A.E.A., 1925, s. 22 (1), or the J.A., 1925, s. 162. Until such a grant has been obtained, title cannot be made. When it has, the special representatives can sell, see the L.P.A., 1925, 1st Sched., Pt. IV, para. 2. Trustees for sale may validly sell by private contract if the sale is otherwise proper, see T.A., 1925, s. 12 (1). No further death duties are payable under the settlement created by L C's will, see F.A., 1894, s. 16 (3).

PROVING EXECUTOR—DESIRE TO RETIRE.

768. *Q.* When four executors have proved a will of a person who died in May, 1926, can one retire before the executorship is completed, and if so, what is the procedure by which such retirement can be carried out, and is such procedure the same as in the case of the retirement of a trustee?

A. A proving executor cannot renounce or divest himself of his office, see *Re Veiga*, 1862, 3 Sw. & Tr. 13, and, if there is land, he must concur in conveying it, see A.E.A., 1925, s. 2 (2) (and conveyance includes assent, see s. 55 (1) (iii)). If, however, he has no reason to suppose that his co-executors will misappropriate the assets, he may leave the administration of personalty to them, and will only be responsible for assets which have been in his power or possession or ought to have been so with due diligence. It is nevertheless suggested that the wiser course will be to go on and obtain release from the residuary legatee in the ordinary course, to avoid unknown liabilities and difficult questions of responsibility. And he should certainly join in the advertisement prescribed by the T.A., 1925, s. 27 (1), as modified by the L.P. (Am.) A., 1926, Sched.

SECOND MORTGAGEE RECEIVER FOR FIRST MORTGAGEE —RIGHT OF REDEMPTION.

769. *Q.* In November, 1912, A appointed B receiver of mortgaged property, B holding a second mortgage of which notice had been given to A. Subsequently, owing to closing orders being made, A had to spend money on the property, and owing to this the principal was increased from £250 to £557. A died in August, 1915, and from that date B has paid the net rents to C, the executrix and trustee of A's will, without deducting the interest on the second mortgage. No accounts have been supplied by C or have they been asked for until now, but if C was liable to account the balance of principal due on the first mortgage would now be less than £500. B now claims the right to pay off the first mortgage and take a transfer thereof, and requires to know the amount due. Has B the right to redeem, seeing that the first mortgagee has been in possession for upwards of twelve years? It will be noted that B is the first mortgagee's receiver and also second mortgagee.

A. Assuming that B as receiver was appointed by A under the statutory power, he is in possession as the mortgagor's agent, see Conv. Act., 1881, s. 24 (2). Consequently the mortgagor has been and is still, notionally in possession. If B redeems A, which he is entitled to do, as second mortgagee, A's term of 3,000 years, under the L.P.A., 1925, 1st Sched., Pt. VII, para. 1, will merge in B's term of 3,000 years plus one day under para. 2, see s. 115 (1) (*a*), and B will have the ordinary rights of a mortgagee. If he continues to collect the rents, however, the question whether he can be his own receiver under the statutory power is not free from difficulty. *Montefiore* v. *Guedalla*, 1903, 2 Ch. 723, may be cited as authority that he can, but the L.P.A., 1925, s. 109 (7), certainly contemplates that the receiver and mortgagee shall be different persons.

UNDIVIDED SHARES—BARE LEGAL ESTATE OUTSTANDING 1ST JANUARY, 1926—TITLE.

770. *Q.* A died in 1906, having by his will, appointed B (his widow) and Y (one of his sons) executors, and given all his property to his wife for life, and at her decease, to be equally divided between his three sons, X, Y and Z. A, prior to his death, agreed to purchase a plot of freehold land for £123, but no conveyance to him thereof was executed during his life. In 1908 the plot was conveyed to B, in fee simple, the conveyance reciting the agreement for sale to A, his death, and probate of his will, and that the purchase money had been paid partly by A and partly by his executors, and that the latter had requested the vendor to convey to B. B died in 1923 intestate, and without leaving any free property. Y now wishes to sell the plot as surviving executor of A. Is it necessary for letters of administration to B to be taken out in respect of the plot, and if so, can Y apply for a grant and what is the procedure?

A. Before her death B held the property upon trust for herself for life, with remainder to her sons. On her death the Conv. A., 1881, s. 30 (1), would have vested this trust in her personal representatives, if any, divesting the heir. But since no personal representatives have been appointed, the opinion is here given that the heir was not divested, and on 31st December, 1925, held upon trust for X, Y and Z, as tenants in common. This being so, the L.P.A., 1925, 1st Sched., Pt. IV, para. 1 (1), applied on 1st January, 1926, to give B's heir the statutory power of sale, though he would have to appoint a co-trustee or co-trustees to give receipt. Assuming that X, Y and Z were the sons of A by B, and that, therefore, the eldest is B's heir, a purchaser should be satisfied if he appoints his brothers as his co-trustees, and proves the payment of death duties on B's death.

INTESTACY BETWEEN 1897 AND 1926—DEATH OF ADMINISTRATRIX WITHOUT HAVING CONVEYED REALTY TO HEIR—TITLE.

771. *Q.* Freehold property was conveyed in 1900 to A and his eldest son B as tenants in common. They mortgaged the property to C. In 1918 A died intestate leaving B his heir-at-law. No letters of administration were taken out on A's death. In 1921 B died intestate leaving D his only son and heir-at-law. Letters of administration to B's estate were taken out by his widow who died leaving D her sole legatee and executor. D has now agreed to sell the property to E. The purchasers solicitors contend that as no conveyance to either of the respective heirs-at-law was executed the legal estate became vested in the Public Trustee under L.P.A., 1925, 1st. Sch., Pt. IV (4). As D however, is the person entitled to require the legal estate to be vested in him does it not automatically vest in him under the 1st. Sch., Pt. II, para. 3?

A. If the questioner will refer to *Q.* 604, p. 52, *ante*, he will see that a problem very similar to his own has already been answered in these columns. The decisions there quoted, are authorities to show that B held the entirety of the property asubject to the mortgage, if so subject), at his death, and, on the reasoning given in that answer, the fee is vested in D either (as his mother's personal representative or his father's heir. If B's widow died before 1926 the property was held as an entirety on 1st January, 1926, and the L.P.A., 1925, 1st. Sch., Pt. IV, would not have applied to it. If B's widow died after 1926 the opinion has been given in these columns that the heir could sell, even in her lifetime, see "A Conveyancer's Diary," vol. 70, p. 723. But assuming Pt. IV, *supra*, had applied, under para. 1 (1) she would have been trustee for sale, and her son as her executor would have been capable of exercising the power on appointing a co-trustee, see T.A., 1925, s. 18 (2). Being, however, sole beneficiary, the situation discussed in *Q.* 244, p. 541, vol. 70 would have been reached, so either way D has a clear title, subject to the mortgage to C if still subsisting.

S.L.A., 1882 TO 1890—PURPORTED SALE BY TENANT FOR LIFE WHO WAS ALSO SOLE TRUSTEE FOR THE PURPOSES OF THE ACTS—TITLE.

772. *Q.* In 1862 A made his will whereby he appointed his wife B and C and D executors thereof and testator appointed C and D trustees thereof. Testator devised his real estate to his *trustees*, upon trust to pay the income thereof to his wife B for life, and after her death, in trust for his sons as tenants in common and testator empowered his trustees during the life of his wife and minority of any of his children to sell and dispose of any part of his real estate. A died in 1877, and his will was proved by B and C, D renouncing. C died on 1st January, 1925, and on 28th February, 1925, B purported to convey part of A's estate to E for valuable consideration, but did not state in what capacity she conveyed, and the conveyance contained no recitals. B died shortly afterwards. E now desires to sell the property, but it would appear that his title is defective inasmuch as B had apparently no power to sell. Did the legal estate vest in C's executor at the end of 1925, or in the Public Trustee, or in E as being the person entitled to require it to be vested in him under 1st Sch., Pt. II?

A. After the death of C, B was sole trustee for the purposes of the above Acts under the S.L.A. 1882, s. 2 (8). She was, however, forbidden by s. 39 (1) to give a receipt for capital money, for she had no express power under the will to do so, as in *Re Johnson's Settled Estates*, 1913, W.N., 222. The sale by her was therefore, *quâ* the purchaser and his assigns *vis-à-vis* the reversioners, not one within the Act. And she could not sell as personal representative of her husband, because, before 1898, real property did not vest in a personal representative as such. The opinion is here given, therefore, that the purported sale was void as against the reversioners, but, of course, it bound B. The questioner does not state whether B died before or after 1st January, 1926. If before, the legal estate of the sons as tenants in common would fall into possession, and the title after 1st January, 1926, would be found by choosing the appropriate sub-paragraph

from the L.P.A., 1925, 1st Sch., Pt. IV, para. 1, according to the number of sons and the dealings with their interests. E would have no estate at all (except his wrongful possession, if in possession), but he might have a claim against B's estate on her covenants for title, and, perhaps more doubtfully, some lien on any title-deeds he held for the aliquot part of his purchase-money attributable to the value of the reversion when he bought. If B died after the 1st January, 1926, the legal estate is vested either in the Probate Judge under the A.E.A., 1925, s. 9, or in B's special representatives, but in either case E has no right to the legal estate (which in the latter case, had automatically reverted to B on 1st January, 1926), and no equity, save possibly as above. It is assumed here that D renounced not only the executorship, but the trust also.

House of Lords.

Lake *v.* Simmons. 4th April.

INSURANCE — THEFT — POLICY — EXCEPTIONS CLAUSE — "CUSTOMER"—GOODS "ENTRUSTED" TO CUSTOMER—JEWELLERY DELIVERED ON APPROVAL—LARCENY BY A TRICK—LARCENY ACT, 1916, s. 1.

The respondent issued to the appellant, a jeweller, a policy insuring him against theft, which contained a clause excepting liability for loss by theft committed by a customer in respect of goods entrusted to him by the assured, unless deposited for safe custody. During the currency of the policy a woman called from time to time at the appellant's shop and purchased small articles for which she paid. Subsequently she obtained from the appellant two valuable pearl necklets by falsely representing that they were for the approval of her husband and her sister's fiancé. She converted the necklets to her own use and was convicted of larceny by a trick.

Held, that the woman was not a customer nor "entrusted" with the necklets within the meaning of the exception clause; that clause therefore did not apply, and the appellant was entitled to recover on the policy.

The appellant, who claimed as plaintiff on a policy of insurance, was a jeweller who became insured by the respondent and the property so insured consisted of his stock-in-trade. The property insured extended not only to the property of the appellant, but also to what was held by him while in his own custody or in the custody of any person to whom he might have entrusted the same. The policy excepted liability for loss by theft or dishonesty committed by any customer in respect of goods entrusted to him or her by the assured. The claim was made by the appellant in consequence of the fraudulent conduct of a woman named Ellison, who was convicted of theft of the necklets the subject of the claim in this action, and was sentenced to hard labour. The facts were that in the early part of 1923 Ellison was living with a Mr. B as his wife, which she was not, at Stonelands, and called at the appellant's shop when she said she was living with her husband at Stonelands, and that her sister had just become engaged to a Commander Digby. On that and two subsequent occasions she purchased certain articles and paid for them by cheque. On 16th March after saying that her husband intended to give her, as a birthday present, a pearl necklet, she looked at two necklets and asked the appellant to permit her to take them to Stonelands in order that her husband might see them. That he let her do, and made an entry in his books not in her favour but in that of her supposed husband as purchaser on approbation. On 28th March she paid a further visit to the shop and stated that Commander Digby admired the other necklet and she wished to take it back to show him again, and the appellant let her take it away for that purpose. There was no such person as Commander Digby, nor had she a sister. She herself made away with both of them, and neither had been recovered. The action was tried by McCardie, J., who gave judgment for the plaintiff, but the Court of Appeal, by a majority, reversed his judgment.

Lord HALDANE, in the course of his judgment, said it was contended for the respondent that what had been established in point of fact amounted to an entrusting obtained by false pretences of the property as distinguished from an obtaining by larceny by a trick. What they had to determine was thus a question on the construction of the exception. Was the case simply one where there was no real consent to any property or possession being taken over by the woman, and in that sense theft in contemplation of law? Or was it a merely voidable transaction in which a delivery, which was intended to pass the possession and a limited proprietary title in the nature of a bailment, was brought about by a false representation, so that it would stand if the seller did not disaffirm it? That that question was a difficult one was obvious, for the judges in the courts below had been equally divided. The first question was the interpretation to be placed on the word "entrusted" in the exceptions. In its most general significance all it imported was a handing over of possession for some purpose which might not imply the conferring of any proprietary right at all, and in the policy it was surely used in a general sense to cover all cases in which the article had been put into the possession of some other person. Now it might well be that in that more general sense the appellant entrusted Ellison with the possession of the necklets. She might well have been his customer on other occasions, but on that particular occasion it was plain from the evidence that he did not look on her but only on her supposed husband and Commander Digby as the possible purchasing customers. Ellison was a mere intermediary, and little more than a porter so far as any contract was concerned, and she certainly got no property. No doubt she got possession physically, but there was no mutual assent to any contract. The appellant never intended to contract with the woman, and it was only by a trick that she got possession. On the facts there ought to be judgment for the appellant, and the appeal would be allowed.

The other noble and learned lords gave judgment to the same effect.

COUNSEL: *Jowitt*, K.C., and *Melville*, K.C.; *Sir John Simon*, K.C., and *F. Van den Berg*.

SOLICITORS: *Kenneth Brown, Baker, Baker; Windybank, Samuell & Lawrence.*

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

High Court—Chancery Division.

***In re* Leigh's Settled Estates.** No. 2. Tomlin, J. 5th April.

SETTLEMENT—TRUST FOR SALE—JOINTURE RENT-CHARGE—TRUSTEES FOR SALE SUBJECT THERETO — TRUSTEES APPROVED BY THE COURT—"IMMEDIATE BINDING TRUST FOR SALE"—ORDER MADE UNDER SETTLED LAND ACT, 1884, 47 & 48 Vict., c. 18, s. 7—EFFECT OF—SETTLED LAND ACT, 1925, 15 Geo. 5, c. 18, ss. 1 and 3—LAW OF PROPERTY ACT, 1925, 15 Geo. 5, c. 20, s. 2, (2), s. 29, (4)—LAW OF PROPERTY (AMENDMENT) ACT, 1926, 16 & 17 Geo. 5, c. 11, Sched.

The words "trust for sale" in the Settled Land Act, 1925, *s.* 1 (7) *and s.* 3, *as amended, must be read as meaning an immediate binding trust for sale, but the meaning of the words "trust for sale" in the Law of Property Act*, 1925, *s.* 2 (2), *as amended, is not confined to an immediate binding trust for sale.*

The approval of trustees contemplated by s. 2 (2), *is not confined to an* ad hoc *approval for the purposes of the sale, but would include such an approval as was to be inferred from an order of the court approving the settlement.*

This was an originating summons raising questions as to the effect of the Law of Property (Amendment) Act, 1926, upon

the powers of tenant for life and trustees. The facts were as follows: A testator, who died in 1861, by his will dated the 22nd May, 1860, devised his freehold estate to the use of his son for life, with remainder to the use of the son's first and every other son successively in tail, with remainder to the use of his first and every other daughter successively in tail. The son died in 1921, having had one son, who had died in 1908 at the age of fourteen years, and one daughter, Mrs. T. On the 7th January, 1885, the son by a deed exercised a power conferred upon him by the will to appoint a jointure rent-charge of £1,500 per annum to his wife, Mrs. H., who was still living on the 3rd December, 1923. An order was made in the Chancery Division approving the marriage of Mr. and Mrs. T. and authorising the execution by Mrs. T. (who was a minor) of three deeds, namely: firstly, a disentailing assurance, as a result of which she became entitled in fee simple to the settled lands subject only to the yearly rent-charge of £1,500; secondly, a conveyance of the settled land to trustees upon trust for sale (with power to postpone), and upon trust to stand possessed of the net proceeds and the rents and profits until sale upon the trusts of a settlement of even date; and, thirdly, the settlement of even date, under which there were payable annuities of £5,000 to Mrs. T. and £1,000 to Mr. T. and £3,500 to Mrs. H., and the balance of the income was payable to Mrs. T. during her life. Two orders had been made under s. 7 of the Settled Land Act, 1884, before the 1st January, 1926, which gave Mrs. T. power to exercise all the powers of a tenant for life of the settled estates. When the matter was last before Tomlin, J. (70 Sol. J. 758; 1926, Ch. 852) he decided that the land was settled land, and that Mrs. T. was a person having the powers of a tenant for life under the Settled Land Act, 1925, s. 20 (1) (viii), because there was no "immediate binding trust for sale" affecting the property, which he held meant that the entire land which was the subject-matter of the settlement was to be subject to the trust for sale and bound by it. After the amending Act this summons was taken out.

TOMLIN, J., after stating the facts, said: I have come to the following conclusions upon the construction of the Acts: Firstly, that "trust for sale" in the Settled Land Act, 1925, s. 1 (7) and s. 3, as amended, must be read as meaning an immediate binding trust for sale. Secondly, that "trust for sale" in the Law of Property Act, 1925, s. 2 (2), as amended, is not confined to an immediate binding trust for sale, as otherwise there would be no point in the sub-sections. The definitions apply subject to the qualification "unless the context otherwise requires." Thirdly, that the approval of trustees contemplated by s. 2 (2) is not confined to any *ad hoc* approval for the purposes of sale, but includes such an approval as is to be inferred from the order of the court approving the settlement made on Mrs. T.'s marriage. And fourthly, that where there is such an approval or appointment of trustees by the court within the sub-section the trust for sale is then capable of operating in relation to the whole subject-matter of the settlement and becomes an immediate binding trust for sale within the definition of trust for sale in the Settled Land Act and the Law of Property Act. It follows that the amending Act rendered the land no longer subject to a settlement within the Settled Land Act, 1925, s. 1. I think, however, that the effect of the Law of Property Act, 1925, s. 29 (4), having regard to the orders giving Mrs. T. leave to execute the powers of a tenant for life is to give her power to sell the estates in the names and on behalf of the trustees.

COUNSEL: *C. A. Bennett*, K.C., and *Wethered*; *H. B. Vaisey*, K.C., and *Tillard*.

SOLICITORS: *Foyer, White, Borrett & Black*.

[Reported by L. M. MAY, Esq., Barrister-at-Law.]

THE BRITISH LAW INSURANCE COMPANY, LIMITED.

Mr. George Bertram Bertram Crowder, of Messrs. Vizard, Oldham, Crowder & Cash, has been elected a Director of the Company.

Williams *v.* **Barton.** Russell, J. 6th, 7th and 13th April.

TRUSTEE—MAKING A PROFIT OUT OF TRUSTEESHIP—STOCK-BROKER'S CLERK—COMMISSION ON INTRODUCTION OF BUSINESS—LIABILITY OF TRUSTEE TO ACCOUNT FOR SUCH COMMISSION TO TRUST ESTATE.

A trustee of a will who was employed by a firm of stockbrokers on commission for work introduced by him employed such firm to value his testator's estate and paid the firm's fees out of the testator's estate receiving back part thereof as his commission.

Held that such commission was a profit acquired solely by his use of his position as trustee and must be accounted for to the trust.

Bray *v.* Ford, 1896, A.C. 44, *followed*.

In re Dover Coalfield Extension Ltd., 1908, 1 Ch. 65, *distinguished*.

This was an action by one of two trustees against his co-trustee for a declaration against his co-trustee that such co-trustee was accountable to the trust estate for moneys received by him from a certain firm of stockbrokers. On the ground that in retaining such moneys the defendant trustee was making a profit out of his trust and so offending the old rule of equity exemplified in the case of *Bray* v. *Ford*, 1896, A.C. 44. The facts were these. The defendant was employed by a firm of stockbrokers in connexion with the Bank of England transfer work. The firm agreed to pay him as salary a commission on all work introduced by him and accepted by them. The firm was, at the suggestion of the defendant trustee, employed to value the securities belonging to the testator's estate. The fees of the firm were paid out of the testator's estate, and in accordance with their contract the firm paid the defendant trustee his commission out of such fees.

RUSSELL, J., after stating the facts, said: It is a well-established and salutary rule of equity that a trustee may not make a profit out of his trust (*Bray* v. *Ford*, *supra*). Under his contract the defendant's remuneration has no relation to the services he is bound to render his employers. While bound to render the services the defendant might get no remuneration if he introduced no work or none which was acceptable to his employers. The amount of the remuneration depends on the defendant's own efforts but upon efforts not in relation to the work he is engaged to do. Any increase of remuneration rests with the defendant. The defendant's duty as a trustee and his interest in an increased remuneration are in direct conflict. He has increased his remuneration by virtue of his trusteeship and made a profit which he would not have made but for his position as a trustee. For the defence *In re Dover Coalfield Extension Limited*, 1908, 1 Ch. 65, is relied on. But in that case at the request of the Dover Company C became a director of the Kent Company, the Dover Company providing the qualification shares and C, in respect of these shares, became a trustee for the Dover Company. As a director of the Kent Company C received fees, but he had not used his position as trustee to acquire the directorship, and the profit he gained was not gained by him by the use of his position as a trustee but by his work for the Kent Company. It was not as in the present case, a profit in respect of which no extra services were rendered. The plaintiff is entitled to the declaration asked for.

COUNSEL: *Spens*, K.C., and *R. M. Pattisson*; *Gavin Simonds*, K.C., and *F. McMullan*.

SOLICITORS: *Parker & Thomas*; *Ellis & Wills*; and *Ingpen & Armitage*.

[Reported by L. M. MAY, Esq., Barrister-at-Law.]

VALUATIONS FOR INSURANCE.—It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is generally very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers, and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-à-brac a speciality.

Societies.

The Barristers' Benevolent Association.

The annual general meeting of the above Association will be held in Gray's Inn Hall on Tuesday next, the 10th inst., at 4.30 p.m. The Right Hon. Lord Merrivale will preside, and all members of the Inns of Court are invited to attend.

Law Students' Journal.

Law Students' Debating Society.

At a meeting of the Society, held at The Law Society's Hall, on Tuesday, the 3rd inst. (Chairman, Mr. W. M. Pleadwell) the subject for debate was "That there is nothing in Spiritualism which justifies a belief in a future life." Mr. Raymond Oliver opened in the affirmative; Mr. E. G. M. Fletcher opened in the negative. The following members also spoke: Messrs. H. Malone, M. C. Batten, V. Miles, G. M. Woolley, C. Binney, E. F. Levi. The opener having replied, and the Chairman having summed up, the motion was carried by six votes. There were seventeen members and one visitor present.

Legal Notes and News.

Honours and Appointments.

Mr. JOHN WELLESLEY ORR, M.A., Barrister-at-Law, has been appointed Stipendiary Magistrate for Manchester in the place of the late Mr. Edgar Brierley, O.B.E., whose sudden death was the subject of a notice in THE SOLICITORS' JOURNAL of the 5th February, 1927. Mr. Orr was called to the Bar in 1904.

Mr. JOHN POOLE has been appointed Solicitor to the Battersea Metropolitan Borough Council as from 1st July next, following upon the resignation of Mr. Paul Caudwell, B.A., who retires after twenty-seven years' service. Mr. Poole, who was admitted in January, 1925, was articled to the town clerk of Stoke-on-Trent (Mr. E. B. Sharpley, O.B.E.) and has been Assistant Solicitor successively to the Stoke-on-Trent and Battersea Councils.

Resignation.

Mr. AUSTEN WHETHAM, solicitor, Bridport, has tendered his resignation of Town Clerk of that borough. Mr. Whetham, who was admitted in 1895, is also Clerk to the Burial Board and Borough Justices.

Professional Announcement.

Mr. H. DUGDALE SYKES, LL.B., solicitor, Old Vestry Offices, Enfield Town, announces that he has taken into partnership Mr. HOWARD MORRIS, who has been assisting him in his practice during the past twelve months. The practice will in future be carried on under the firm name of "Dugdale Sykes & Morris" and the telephone number (Enfield 0080) remains the same.

THE CORONERS ACT.

Mr. H. R. Oswald, the senior coroner for London, discussed the Coroners Act, which came into force on Sunday last, at a Hammersmith inquest on the 4th inst. He subsequently expressed the opinion that: "Inquests, which hitherto cost the ratepayers of the County of London about £25,000 a year, will, I estimate, work out at about twice that figure. There are various radical changes under the new Act which will bring about this increase. Doctors, who before were paid one inclusive fee for attending an inquest, will now get sums for every time they have to attend the adjournments. Juries will have to be paid to attend all accident cases, and many others, too, some of which are almost formal affairs. Of course, it is really too early yet to express any definite opinion whether the Act is a good measure or not; I shall have to see how it works." We hope to publish an article on the Act in our next issue.

MR. HANSELL SITS AS OFFICIAL REFEREE.

Mr. E. W. Hansell, K.C., the newly appointed Official Referee, took his seat at the Law Courts on Wednesday and was heartily congratulated by members of the Bar on his appointment. He thanked them for their good wishes.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 4½%. Next London Stock Exchange Settlement, Thursday, 12th May, 1927.

	Middle Price 4th May	Interest Yield.			Yield with Redemption.		
English Government Securities.		£	s.	d.	£	s.	d.
Consols 4% 1957 or after	86⅜	4	13	0	—		
Consols 2½%	55⅛	4	11	0	—		
War Loan 5% 1929-47	100 7/8	4	19	6	4	19	6
War Loan 4½% 1925-45	95⅝	4	14	6	4	17	6
War Loan 4% (Tax free) 1929-42	100⅜	4	0	0	4	0	0
Funding 4% Loan 1960-90	87¼	4	12	0	4	13	0
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years	91½	4	7	6	4	10	6
Conversion 4½% Loan 1940-44	97½	4	12	6	4	17	0
Conversion 3½% Loan 1961	76 1/8	4	11	6	—		
Local Loans 3% Stock 1921 or after	64½	4	13	0	—		
Bank Stock	247	4	17	0	—		
India 4½% 1950-55	90¾	4	19	0	5	2	6
India 3½%	71	4	19	0	—		
India 3%	61	4	19	6	—		
Sudan 4½% 1939-73	94	4	16	0	4	17	0
Sudan 4% 1974	84½	4	15	0	4	18	6
Transvaal Government 3% Guaranteed 1925-53 (Estimated life 19 years)	80½	3	14	0	4	12	0
Colonial Securities.							
Canada 3% 1938	84½	3	11	6	4	18	0
Cape of Good Hope 4% 1916-36	92½	4	6	6	5	0	0
Cape of Good Hope 3½% 1929-49	80	4	7	6	5	1	0
Commonwealth of Australia 5% 1945-75	100	5	0	0	5	0	0
Gold Coast 4½% 1956	95¼	4	14	6	4	17	6
Jamaica 4½% 1941-71	91	4	18	0	4	19	6
Natal 4% 1937	92½	4	6	6	4	19	6
New South Wales 4½% 1935-45	89	5	1	6	5	10	0
New South Wales 5% 1945-65	94¾xd	5	5	6	5	6	6
New Zealand 4½% 1945	95½	4	15	0	4	18	6
New Zealand 5% 1946	101⅜	4	18	0	4	18	6
Queensland 5% 1940-60	96½	5	3	6	5	4	6
South Africa 5% 1945-75	102	4	18	0	4	19	6
S. Australia 5% 1945-75	98⅜	5	1	6	5	2	6
Tasmania 5% 1945-75	100½	4	19	6	5	1	0
Victoria 5% 1945-75	100	5	0	0	5	2	0
W. Australia 5% 1945-75	99	5	1	0	5	3	0
Corporation Stocks.							
Birmingham 3% on or after 1947 or at option of Corpn.	62¾	4	16	0	—		
Birmingham 5% 1946-56	101½	4	19	0	5	0	0
Cardiff 5% 1945-65	100⅜	4	19	0	4	19	0
Croydon 3% 1940-60	69	4	7	6	5	0	0
Hull 3½% 1925-55	78¼	4	10	0	5	0	0
Liverpool 3½% on or after 1942 at option of Corpn.	73½	4	15	6	—		
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	52½xd	4	16	0	—		
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	62½xd	4	15	6	—		
Manchester 3% on or after 1941	62¾	4	15	6	—		
Metropolitan Water Board 3% 'A' 1963-2003	62¾	4	15	6	4	16	0
Metropolitan Water Board 3% 'B' 1934-2003	64¾	4	12	6	4	15	0
Middlesex C. C. 3½% 1927-47	81⅞	4	6	0	4	18	0
Newcastle 3½% irredeemable	71½	4	18	6	—		
Nottingham 3% irredeemable	61⅜	4	17	0	—		
Stockton 5% 1946-66	100⅜	4	19	0	4	19	6
Wolverhampton 5% 1946-56	100½	4	19	6	4	19	6
English Railway Prior Charges.							
Gt. Western Rly. 4% Debenture	81	4	19	0	—		
Gt. Western Rly. 5% Rent Charge	98½	5	1	6	—		
Gt. Western Rly. 5% Preference	93⅜	5	7	0	—		
L. North Eastern Rly. 4% Debenture	75½	5	6	0	—		
L. North Eastern Rly. 4% Guaranteed	72	5	11	0	—		
L. North Eastern Rly. 4% 1st Preference	67½	5	19	0	—		
L. Mid. & Scot. Rly. 4% Debenture	79½	5	0	6	—		
L. Mid. & Scot. Rly. 4% Guaranteed	76½	5	4	6	—		
L. Mid. & Scot. Rly. 4% Preference	72½	5	10	0	—		
Southern Railway 4% Debenture	80	5	0	0	—		
Southern Railway 5% Guaranteed	97½	5	2	6	—		
Southern Railway 5% Preference	92	5	9	0	—		

COST OF METROPOLITAN POLICE.

At the beginning of this year the strength of the Metropolitan Police Force was 19,869, consisting of five chief constables, thirty-four superintendents, 641 inspectors, 2,910 sergeants and 16,279 constables. The cost of the force, in round figures, during the financial year ended 31st March last, according to the report issued yesterday, was £7,996,898, and, as the total income was £9,247,306, there was a balance of £1,250,407, compared with £996,068 the previous year.

The chief sources of receipts were: Parliamentary votes, £2,362,300; local taxation account, £1,130,050; rates, £3,734,892; police services at Government Departments, £379,676; police services to private individuals, £23,210; fees, fines, and penalties, £77,920.

The chief items of expenditure were: Salaries of chief constables and superintendents, £27,825; pay of inspectors, sergeants, and constables, £4,615,401; rent allowances, £537,170; clothing and boot allowances, £174,467; pensions, £1,613,826; women police, £9,407; special constables, £35,554; national emergency expenses, £17,672; police motor vehicles and motor prison vans, £35,297; telegraph, telephone and wireless services, £24,692.

LANDLORD AND TENANT BILL.

We understand that the consideration of this Bill, which provides for certain reforms of the leasehold system, will be embarked upon by a Standing Committee of the House of Commons on Tuesday next, and as there are, up to the present, about 150 amendments on the order paper it is obvious that the discussion of the proposals will occupy a good many sittings.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

Date.	Emergency Rota.	Appeal Court No. 1.	Mr. Justice Eve.	Mr. Justice Romer.
Monday May 9	Mr. Bloxam	Mr. Synge	Mr. Hicks Beach	Mr. Bloxam
Tuesday .. 10	Hicks Beach	Ritchie	Bloxam	Hicks Beach
Wednesday 11	Jolly	Bloxam	Hicks Beach	Bloxam
Thursday . 12	More	Hicks Beach	Bloxam	Hicks Beach
Friday 13	Synge	Jolly	Hicks Beach	Bloxam
Saturday .. 14	Ritchie	More	Bloxam	Hicks Beach

Date.	Mr. Justice Astbury.	Mr. Justice Clauson.	Mr. Justice Russell.	Mr. Justice Tomlin.
Monday May 9	Mr. Synge	Mr. Ritchie	Mr. More	Mr. Jolly
Tuesday .. 10	Ritchie	Synge	Jolly	More
Wednesday 11	Synge	Ritchie	More	Jolly
Thursday . 12	Ritchie	Synge	Jolly	More
Friday 13	Synge	Ritchie	More	Jolly
Saturday .. 14	Ritchie	Synge	Jolly	More

HIGH COURT OF JUSTICE—CHANCERY DIVISION

EASTER SITTINGS, 1927.

CHANCERY CAUSES FOR TRIAL OR HEARING.

Continued from page 354.

Re City Life Assce Co ld Hubbard v Burgess
Re Leghs Settled Estates & re Settled Land Act, 1925
Re Spurway Ford v Royal Exchange Assce
Re Mannering Vaughan v Mannering
Moore v Collins
Re Buller Buller v Buller
Re Eyre-Williams Eyre-Williams v Williams
Re Paine Paine v Ruck
Re Trower Napper v Trower
Trinidad Petroleum Co ld v Petroleum Options (1925) ld

COMPANIES (WINDING UP) AND CHANCERY DIVISION.

Companies (Winding Up).

Petitions (to wind up).

Alliance Bank of Simla ld (petn of L W Warlow-Harry—ordered on May 6, 1924, to stand over generally)
Robert Young's Construction Co ld (petn of London Asphalte Co ld—stand over from Jan 20, 1925—liberty to apply to restore)
H A P P Tanning Co ld (petn of J B Maclean & ors—ordered on June 2, 1926, to stand over generally)
Trinidad Land & Finance Co ld (petn of A H Clifford & anr, trading as Clifford & Clifford—ordered on June 15, 1926, to stand over generally)
Intertype ld (petn of Mergenthaler Linotype Co—stand over from Jan 11, 1927 to April 26, 1927)
Henslowe Bus Co ld (petn of Avon Rubber Co ld—stand over from Jan 18, 1927 to April 26, 1927)
Newton Trust ld (petn of F S Quilliam — stand over from April 5, 1927 to April 26, 1927)
Wareham Electric Supply Co ld (petn of W E Weston with witnesses—stand over from April 5, 1927 to April 26, 1927)
West Electric Hair Curler Co (of England) ld (petn of D L Short —stand over from April 12, 1927 to May 3, 1927)
British & Colonial Novelty Co ld (petn of B Ulbricht—stand over from April 5, 1927 to April 26, 1927)
McCurd Lorry Manufacturing Co ld (petn of Buck & Hickman ld —stand over from March 22, 1927 to April 26, 1927)
Barnett Brush Manufacturing Co ld (petn of G D Horgan—stand over from March 29, 1927 to April 26, 1927)
Canadian Timber Importers ld (petn of Cobbett & Co ld—stand over from April 5, 1927 to April 26, 1927)
Bargate & Co ld (petn of Cinema Trust Co ld—stand over from April 12, 1927 to April 26, 1927)
Associated Tailors ld (petn of A Hollington, R Hollington & B R Croyden, trading as Hollington Bros—stand over from April 12, 1927 to April 26, 1927)
B Syder & Co ld (petn of Kagin & Schen, a firm—stand over from April 12, 1927 to April 26, 1927)
D O Evans & Sons ld (petn of Corke, Sons & Co, a firm)
Drayton Carburettor Syndicate ld (petn of R M Balston, trading as Inventions Development Co)
William Godwin & Son (Lugwardine Tileworks) ld—(petn of J G M Jeffrey & anr)
Maison Laurence ld (petn of Cecile Block, trading as Cecile Black)
Charlesworth Bros ld (petn of E L Marshall, trading as Marshall & Co)
Ethelburga Investment Trust ld (petn of Waterlow & Sons ld)
Alfred Howard & Co ld (petn of F J Zealey)
Phillips Manufacturing Co ld (petn of Louis Kuppenheim A.G.)
Ocean Fish Co ld (petn of Medina Refinery ld)
Brooklands (Romford) Estate Co ld (petn of W Herbert)
Trafalgar Films ld (petn of R Fogwell)
Frost & Sons (London) ld (petn of Smith Hartley ld)
Waterer & Green ld (petn of W R Snow, R G Snow, J C Snow, W G Bishop & L Pacaly, trading as W R Snow & Co)

Chancery Petitions.

Hull Oil Manufacturing Co ld & reduced (to confirm reduction of capital)
Paul Ruinart (England) ld & reduced (same)
Victoria Club Estate Co ld & reduced (same)
Granger Harrison & Co ld & reduced (same)
Kirkland Lake Proprietary (1919) ld & reduced (same)
Cassell & Co ld & reduced (same)
Joint Industries ld & reduced (same)
Care & Marquand Shipping Co ld & reduced (same)
Askern Picture House ld & reduced (same)
Sheaf Steam Shipping Co ld & reduced (same)
Nanwa Gold Mines ld & reduced (same)
Redhill Tile Co ld & reduced (same)
Patent Victoria Stone Co ld & reduced (same)
Tankerton Estate ld & reduced (same)
Great Eastern Train Ferries ld & reduced (same)
Handley Page ld & reduced (same)
British Columbia Electric Ry Co ld (to confirm alteration of objects)
Planet Assce Co ld (same)
Coleman & Co ld (same)
Merchants Trust ld (same)
Russian Wood Agency ld (to confirm reorganisation of capital)

Companies (Winding Up.) Motions.

John Dawson & Co (Newcastle-on-Tyne) ld (s.o. generally by consent)
S Jacobs & Co ld (ordered on March 15, 1921, to s.o. generally)
H C Motor Co ld (ordered on July 5, 1921, to s.o. generally)
Corbridge Steamship Co ld (ordered on Dec 15, 1925, to s.o. generally)
R Maurice & Co ld (ordered on April 5, 1927, to s.o. generally)

Adjourned Summonses.

Companies (Winding Up.)

Vanden Plas (England) ld (with witnesses)
Fairbanks Gold Mining Co ld (ordered on July 26, 1921, to s.o. generally)
Blisland (Cornwall) China Clay Co ld (ordered on Dec 16, 1921, to s.o. generally)
Atkey (London) ld (ordered on Jan 22, 1924, to s.o. generally)
Joint Stock Trust & Finance Corpn ld
Same (to review taxation)
Direct Fish Supplies ld (appn of H E Warner—ordered on Feb 3, 1925, to s.o. generally)
Consolidated Produce Corpn ld (appn of Sir E Bellingham—with witnesses—ordered on Dec 7, 1926, to s.o. generally)
Same (appn of H Williams—with witnesses—ordered on Dec 7, 1926, to s.o. generally)
Same (appn of I Hyams—with witnesses—ordered on Dec 7, 1926, to s.o. generally)
Chimbote (Peru) Coal & Harbour Syndicate ld (ordered on Dec 14, 1926, to s.o. generally)
National Benefit Assce Co ld
Aircraft Manufacturing Co ld
Thomas Sharp & Co ld (with witnesses)

Chancery Division.

French South African Development Co ld Partridge v French South African Development Co ld (ordered on April 2, 1914, to s.o. generally pending trial of action in K B D)
Economic Building Corpn ld (with witnesses—ordered on July 3, 1923, to s.o. generally)
Economic Building Corpn ld (ordered on July 3, 1923, to s.o. generally)
Selected Gold Mines of Australia ld Nash v Selected Gold Mines of Australia ld & anr (ordered on July 28, 1926, to s.o. generally—liberty to restore)

Before Mr. Justice ASTBURY.

Retained Matters.

Brandon v Pearlberg
Re Bonner Warren v Orlebar

Causes for Trial.

(With Witnesses.)

Waterlow & Sons ld v Rapkin and ors
Re Samson Cordage Trade Mark and re Trade Marks Acts, 1905 to 1919
Sames v Samestophone ld
Re Wharncliffe Woodmoor Colliery Co ld and re Cos (C) Act, 1908
Shearman v Southend Corpn
Erembert v Pollak
Levison v Hart
Brandon v Pearlberg
Davies v Walton
Coffin v Threipland
Sharpe & Dohme v Boot's Pure Drug Co ld
Cork v Molinari
Whittome v Jones
Heywood v Newcastle-under-Lyme Corpn
Hart v Demuth
Barske v Westminster Bank ld
Emby v Roy
Mills v Partridge
Davies v Davies
Steele v Steele
Lonsbrough v Cousans
Malin v Shrub
Storr v Storr
Lyons v Regent Trust ld
Lucas v Lucas
Rose v S D H Manufacturing Co
J Crosby & Co ld v Peizer
E Lloyd & Co (Brompton Rd) ld v Watts
Adria S A Di Navigaziome Mauttina v Administrator of Hungarian Property
Craske v Roe
Att-Gen v The Rayson Manufacturing Co ld
Fawcett v Marshall
Coyte v Pitts
York v Barclay
Wilkinson v Kitchin
Trustee in Bankruptcy of G E Sebright v Sebright
Baldock v Jacobs
Trustee in Bankruptcy of A H Amies v Peek
Rice v Robinson
Champagne Heidsieck Monopole Societe Annonyme v Blumenthals ld
Palmolive Co (of England) ld v Freedman
Dabbs v Askew
Maynards ld v Barker

Before Mr. Justice RUSSELL.

Further Considerations.

Re Blake Blake v Hardy
Re Landore Zinc Works Woodliffe v The Company
Re Taylor Taylor v Taylor

Adjourned Summonses.

Re Cunningham C Kinloch & Co ld v Cunningham
Re Todd Norton v Todd
Re J R Yourdi, dec Hicks v Yourdi
Re Crockitt, dec Midland Bank Executor & Trustee Co ld v Crockitt
Re Bradley, dec Bradley v Bradley
Re Tuttle Fenwick v Matthew
Re Earl Poulett's Settlement Public Trustee v Poulett
Re Pedley Wallace v Wallace
Re Whitting Leslie v Kitcat
Re Cassell Public Trustee v Mountbatten
Re Hughes Settlement Trusts Hudson v Myers
Re Gillett, dec Brown v Steel
Re Northcliffe, dec Arnholz v Hudson
Re Northcliffe, dec Arnholz v Ellis
Re George Smith, dec Aspinall v Public Trustee
Re Harland, dec Stileman v Peake
Re David Evans, dec Harrison v Evans
Re Cutler, dec Cutler v Cutler
Re Sheldon Sheldon v Bosley
Re Potter Thorold v Potter
Re Symons, dec Henriques v Elkin
Re Crompton Trustee of A Crompton & G L Crompton (bankrupts) v Crompton
Re C Morris, dec Skinner v Morris
Re Goodwin Goodwin v Corrick
Re Mackenzie & Brasted's Lease Brasted v Mackenzie
Re Grindod Marshall v Buchanan-Dunlop
Re Moosbrugger Alcock v Vicasino
Re Waite Sykes v Hayes
Re Phipps Gross v Lamb
Re Stringer Allsop v Sale
Re Willcoxs Hinds v Williams
Re Jones Williams v Davies
Re Lindo Hood v Garnett
Re Duke of Westminster Settled Estate Duke of Westminster v McKenna
Re Tomlinson Tomlinson v Tomlinson
Re Cregoe-Colemore Hall v Public Trustee
Re Howard Lee v Frieake
Re Martin Public Trustee v Martin
Re Lord Arlington & re Law of Property Act, 1925
Re Gordon Gordon v Gordon
Re Walker Walker v Lacey
Elmsall v Nunn
Re Pimm Lloyds Bank ld v Pimm
Re Thomas Thomas v Thomas
Re Bancroft Bancroft v Bancroft
Re Lowther Ullswater v Lowther
Re Wardle Taylor v Judge
Re Jauncey Bird v Arnold
Re Dorling Roberts v Dorling
Re Griffith Griffith v Evans
Re Williams Parry v Powell
Re Weismann Westminster Bank ld v Weismann
Re Harrison & Wife & re Married Women's Property Act, 1882
Re Walker Wilson v Kemp
Re White Hyde v Public Trustee
Re Symes Symes v Symes
Levin v Levin
Re Taylor Taylor v Taylor
Weber v Barritt

Before Mr. Justice ROMER.

Causes for Trial.

(With Witnesses.)

Groedel v Administrator of Hungarian Property
Hattersley v Newman
Wardle v Rennoldson
Moore v Taylor
Tecalemit ld v Ewarts ld
Same v Same
Re Patents & Designs Acts, 1907 & 1919 Re Registered Design, No 703,913 of Tecalemit ld
Re Letters Patent granted to Societe Anonyme des Etablissements Tecalemit, 211,881 Re Patents & Designs Acts 1907 & 1919
Nuttall v Hallett
B H T & Co ld v Hobbies ld
Ashton v Harvey
Smarts (London) ld & re Cos (C) Act, 1908
Pink v Peddie
Pirbright Co ld v Peddie
Duke of Westminster v London County Council
British South African Insce Corpn ld (in liquidation) v Motor Union Insce Co ld
Mander v Ansteys ld Ansteys ld v Mander
Tecalemite ld v C C Wakefield & Co ld
The British United Shoe Machinery Co ld v Lambert, Howarth & Sons ld & ors
Padley v Dowsett
Maloney v Bovril ld
Gowen v Crisp
Re Inecto ld & re Cos (C) Act, 1908
Baker v Jeffs
Sawyer v Park
Heels v Stafford Heels ld
Hood v Blake
M Dunn ld v Pearson
Free, Rodwell & Co ld v Horlock
Duke of Westminster v Field
Wellingham v Horlock
The Poplar Cinema ld v Cleave
Hirst v Blair
Gregson v The Franco-British & General Trust ld
Altrincham U D C v O'Brien
Bolton v Lawson
W H Milsted & Son ld v Hamp
Fierstone v Fierstone
Ranvaud v Cumberland
Redman v Shaw
Cropper v Cropper
Owen v Robbins
Jenson & Nicholson ld v Postans & Morley Bros ld
Manley v Birch
J A Crabtree & Co ld v Kerson Manufacturing Co ld
Rice & Harper ld v Boyde
Re Trade Mark, No 444,248 of Wenatchee Rex Spray Co Re Trade Marks Acts, 1905 to 1919
Kochen v Benson
The Lancashire & Yorkshire Reversionary Interest Co ld v Jefferson
Williams v Williams
Re Sewell Jones v Baxter
Smith's Potato Crisps ld v Paige's Potato Crisps ld
Re Pickard Pickard v Gale
Woods v Woods
Colson v Strauss
The Co-operative Timber Co ld v Cahal
Watkins v Singer
Re Barnett Barnett v Barnett
Lewis v Lewis
Sargent v Williams
Re Jaffe Jaffe v Jacobson
Nixon v H A P P Tanning Co ld
Re Griffiths' Settlement Edwards v Griffiths
Winn v Bagley
Arthur du Cros v The Dunlop Rubber Co ld
Alfred du Cros v Same
George du Cros v Same
The Dunlop Rubber Co ld v du Cros
Same v Same
Same v Same
Same v Same
Same v Ormrod
The Dunlop Rubber Cotton Mills v Same
George Webb & Son ld v Jackson
Re The Cos Act, 1908 Re W Kaufmann & Co ld
Guille v Scrases' Brewery ld

Before Mr. Justice TOMLIN.

Retained Adjourned Summonses.

Re Taylor Hulbert v Taylor (with witnesses)
Re Prime Thompson v Brown (restored)
Re Achillopoulos Johnson v Mavromichali (s.o.)
Re Adams Brenton v Brenton (restored)

Assigned Adjourned Summonses.

Re Pike & Neville's Patent & Re Patents & Designs Acts, 1907 & 1919
Re John Levick, Junior's Patent & re Patents and Designs Acts, 1907 & 1919

Causes for Trial.

(With Witnesses.)

Dawson v Effingham Estates ld (advanced by order)
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KING'S BENCH DIVISION.

EASTER SITTINGS, 1927.

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Attorney-Gen and The London & North Eastern Ry Co & ors
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Attorney-Gen and Vera Carlotta Belilios & ors

Cases Stated.

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In the Matter of John William Atkinson, dec
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PETITIONS UNDER THE FINANCE ACT, 1894.

In re Samuel Thornley, dec
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